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GOVERNMENT

REGIONAL ORGANIZATION FOR BAY CONSERVATION AND DEVELOPMENT

BY

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G O V E R N M E N T

Regional Organization for
Bay Conservation and Development

by

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This volume is one of a series of background reports being prepared for the San Francisco Bay Conservation and Development Commission by the Commission's staff, by various State agencies, and by private consultants. Summaries based on these reports are also being prepared for wide distribution. The summary reports will provide the Commission with the basis for determining policies and criteria upon which to base its plan for the future of the Bay.

Prepared for the
San Francisco Bay Conservation and Development Commission

October, 1967

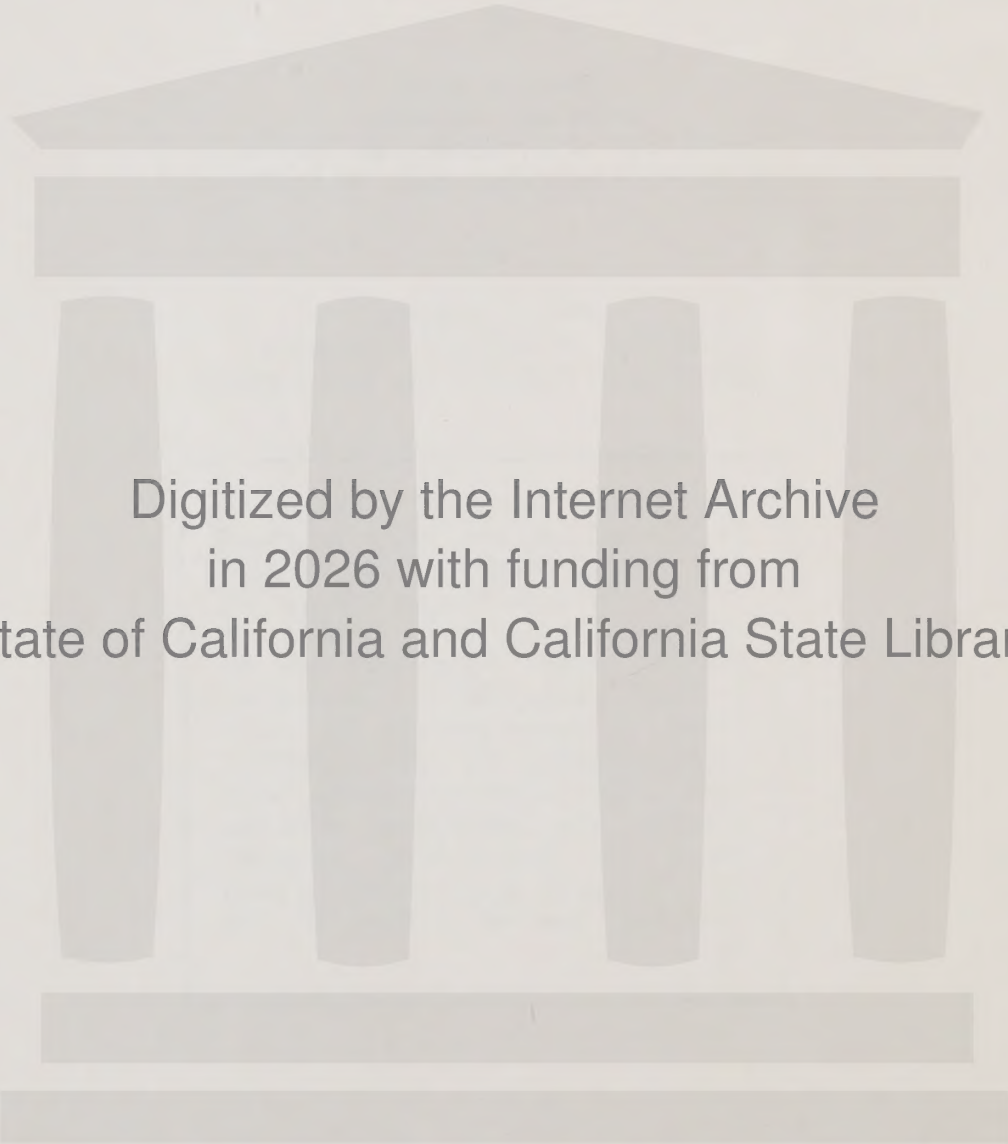
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C O N T E N T S

PART ONE PROBLEMS OF GOVERNMENTAL ORGANIZATION AS THEY AFFECT SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT

	Page
CHAPTER I. INTRODUCTION	1
The Legislative Charge	1
Current Interest in Comprehensive Approaches	3
The Array of Problems	4
Implications for the Future	5
A Central Task -- Analyzing Areas of Conflict	6
Organization of the Study	7
CHAPTER II. THE NINE COUNTIES' REGIONALISM: AN HISTORICAL OVERVIEW	9
The Bay and the Region	9
Experimentation: A Product of Diversity	12
The Governor's Commission: 1959-1961	14
Developments: 1960-1966	16
1. The Association of Bay Area Governments	16
2. The Transportation Study Commission	19
3. The Commission on Bay Filling	20
4. A Plan to Avert Large-Scale Water Pollution	22
CHAPTER III. SOME GUIDELINES FOR FURTHER STUDY AND DECISION	25
Criteria for Any Regional Government	25
1. Full Analysis and Disclosure	26
2. Representation of "Interests"	27
3. Careful Study -- But Leading to a Final Decision	27
4. Relating the Process to the Need	28
a. Goals: The End Product	28
b. Implementation: Many Levels	29
5. Accountability	29
6. Responsiveness	30
7. Decision Capability	30
Determinants of Policy	31
1. Questions and Controversies: The Bay Alone	31
2. Questions and Controversies: The Bay Plus Other Regional Issues	34
3. Representation as a Policy Determinant	35
4. Other Policy Determinants	37

	Page
Representation: Constituting the Policy-Making Body	37
1. Constituent-Unit Representation	38
2. Appointment by the Governor	41
3. Direct Election	42
a. Political Visibility	44
b. Choosing Replacements	44
c. Size of Electoral Districts	45
d. Closeness of Contest	48
e. Partisanship	48
4. Some Concrete Possibilities for Representation on a Regional Policy-Making Body	51
a. An Elected Governing Body	51
b. The ABAG Proposal and Variations	52
c. A Continuation of BCDC	52
d. Other Kinds of "Mixed" Bodies	52
The Regional Legislative Responsibility: Time, Effort, Tenure, Compensation, Size of Body	53
Leadership: Selecting a Chief Executive	56
Agency Functions and Powers: A Minimum	58
Agency Functions and Powers: A Multipurpose Body?	59
1. The Rationale	59
2. The Choices	60
a. An Operating Agency: Consolidation	60
b. A Coordinating (or "Umbrella") Agency: Integration Without Consolidation	60
c. Which Regional Functions?	62
Financing Regional Programs	64
Relations With Other Governments	68

PART TWO ALTERNATIVE APPROACHES TO
 METROPOLITAN GOVERNMENTAL
 ORGANIZATION: A SURVEY

CHAPTER IV. A ONE-TIER APPROACH: CITY-COUNTY CONSOLIDATION

73

The Early Consolidation	75
Opposition and Defeats	76
Adoption in Baton Rouge	77
1. Differential Zones	77
2. Periodic Review	79
Revived Interest	79
The Nashville Consolidation	80
1. General and Urban Service Areas	81
2. Mayor, Council, and Redistricting	82
3. A Favorable Evaluation	82
Possible Relevance of City-County Consolidation to the Bay Area	83

CHAPTER V. TWO-TIER APPROACHES

85

Introduction	85
Federation	86
1. The Movement	86
a. Serious Efforts	87
2. The Obstacles to Adoption	88
a. Legal Impediments	88
b. Internal Problems	89
3. Area and the Borough Concept	90
4. The Toronto Area Federation: How It Came to Be	92
5. The Toronto Area Federation: The First Thirteen Years	94
a. Metropolitan Powers and Shared Functions	94
b. Balanced and Ex-Officio Representation	96
c. Accomplishments and Criticism	97
6. The Toronto Area Federation: The Reorganization of 1966	99
a. Municipal Consolidation	99
b. Redistribution of Representation	100
c. Other Alterations	101
d. Major Unchanged Features	102
7. Possible Relevance of Federation to the Bay Area	102
The Comprehensive Urban County	104
1. Dade County (Miami): The Plan in Action	104
a. Background and Adoption	105
b. The Structural Renovation	106
c. Enlarged Powers	107
d. Challenge and Support: Attempts to Alter the Plan	108
e. Problems of Leadership and Finance	109
f. The Problem of Divisiveness	110
2. Possible Relevance of the Comprehensive Urban County Approach to the Bay Area	111
Regional and Subregional Multi-County Districts and Agencies	112
1. Many Functions, Many Districts	113
2. Reasons for Growth of Metropolitan Districts	114
a. A Last Resort	114
b. A Mild Method	115
c. Limited Finances	116
d. Ease of Formation	116
e. Indirect Methods of Selection	117
f. Constituent-Unit Concept	118
g. Criticisms of Appointment Method	120
3. The Multipurpose District Idea	121

	Page
4. State and Interstate Agencies	122
a. Metropolitan District Commission	122
b. Delaware River Basin Commission	123
c. The Tahoe Regional Planning Agency	124
d. New York Experience and the Case Against Authorities	125
5. Possible Relevance of Metropolitan Districts to the Bay Area	129
Councils of Governments	130
1. Major Characteristics	131
a. A Forum, Not a Government	131
b. Voluntary Nature	131
c. Member Governments	131
2. A Recent Movement	132
a. Initial Slow Growth	133
b. Varied Difficulties	134
3. COG Activities	135
a. Intergovernmental Communications	135
b. Planning, Legislation, Cooperation	135
4. Expansion of the Movement	136
a. Federal Stimulation	136
b. Coordinating the Review Function	138
5. Possible Relevance of Councils of Govern- ments to the Bay Area	138
 CHAPTER VI. THE ABAG PROPOSAL FOR REGIONAL GOVERNMENT	 140
ABAG and the Genesis of its Proposal	140
Important Contributions of the Proposal	141
Functions and Powers	142
1. Functions	142
2. Powers	146
Representation	148
1. The Majority Proposal and Others	148
a. The Majority Proposal	148
b. ABAG Member's Minority Proposals	151
c. "One Man, One Vote": The Principle of Equal Representation	151
d. Does the Constitutional Principle Apply to Metropolitan Organizations?	152
e. The Majority Proposal -- Departures from the Principle	157
f. Could ABAG Comply With the Principle?	166
Method of Selection: Further Comments	169
1. Should Multipurpose Legislative Bodies be Directly Elected?	169
2. The Role of the Mayors' Conference	170
a. Reasons for Creation	170
b. The "Bay Area Pattern"	171
c. Advantages	172
d. Drawbacks: Mayors' Conference Weaknesses	172
e. Possible Changes	174

	Page
3. The Partisan Effects of Selection by "Non-partisan" Local Government	175
a. A Case for Partisan Involvement in Urban Problems	177
b. Is Local Government Politically Neutral?	179
c. Local Government is not Politically Neutral	182
d. Partisanship and ABAG	183
Independence of View and Voting by Regional Legislators	185
1. Is Independence Desirable?	185
2. Will It be Possible Under the ABAG Proposal?	186
Conclusions	187
CHAPTER VII. DIRECT ELECTION: TWO POSSIBILITIES	189
Election from Assembly Districts	190
1. Eighteen Electoral Districts and "Automatic" Reapportionment	192
2. The Implications of Using Assembly Districts	194
Election from State Senate Districts	198
Further Comments and Conclusions	202
 <u>PART THREE SUMMARY</u> OF REPORT	
CHAPTER VIII. SUMMARY OF REPORT	205
Introduction	205
Guidelines for Further Study	207
Criteria for any Regional Government	207
Some Determinants of Policy	208
Representation on the Policy-Making Body	210
The Regional Legislature: Time and Effort, Tenure, Size, Compensation	213
Leadership: Selecting a Chief Executive	214
Agency Functions and Powers: A Minimum	215
Agency Functions and Powers: A Multipurpose Body	215
Financing Regional Programs	217
Relations with Other Governments	218
Alternative Approaches to Metropolitan Governmental Organization	219
The One-Tier Approach: City-County Consolidation and its Possible Relevance to the Bay Area	219
Two Tier Approaches: Introduction	220

	Page
Two-Tier Approaches: Federation and Its Possible Relevance to the Bay Area	221
Two-Tier Approaches: The Comprehensive Urban County and Its Possible Relevance to the Bay Area	222
Two-Tier Approaches: Regional Districts and Agencies and Their Possible Relevance to the Bay Area	223
Two-Tier Approaches: Councils of Governments and Their Possible Relevance to the Bay Area	225
A Proposal for Regional Government Sponsored by the Association of Bay Area Governments	225
Important Contribution of the Proposal	226
Functions and Powers	226
Representation	227
The Partisan Effects of Selection by Non-partisan Local Government	231
Independence of View and Voting by Regional Legislators	232
Conclusions	232
Direct Election: Two Possibilities	233
Election from Assembly Districts	233
Election from State Senate Districts	234
Conclusions	234

APPENDIX. LOCAL GOVERNMENT AND POLITICAL PARTISANSHIP

TABLES

	Page
1. Vote Distribution: 34-Member Executive Committee	150
2. County Governments' Voting Strength Compared with Population	159
3. Mayors' Conferences: Possibilities for Minority Control	162
4. Voters in Cities and Unincorporated Areas, November, 1966	164
5. County Supervisorial Districts: Divergence in Apportionment	167
6. Possible Assembly District Modification for Bay Area Electoral Purposes	192
7. Bay Area Assembly Districts, 1966 Voter Registration	193
8. 1966 California Assembly Election Results: San Francisco Bay Area	196
9. Possible Senate District Modification for Bay Area Electoral Purposes	200
10. 1966 California Senate Election Results: San Francisco Bay Area	202
11. Voters and County Supervisors: Differences in Party Registration, 1966	Appendix
12. Voters and County Supervisors: Quartile Groupings of Supervisorial Districts, 1966	Appendix
13. Voters and City Councilmen: Cities Grouped by Quartile, 1966	Appendix
14. Voters and City Councilmen: Cities Grouped by Counties, 1966	Appendix
15. Party Differences: County Weighted for Population	Appendix
16. Party Differences: City Weighted for Population	Appendix
17. Party Differences: City and County Comparisons	Appendix

	Page
18. Partisan Composition of Executive Committee: Association of Bay Area Governments, 1966	Appendix
19. Partisan Composition of General Assembly: Association of Bay Area Governments, 1966	Appendix
20. Party Differences: ABAG General Assembly Compared with Bay Area Supervisors and Councilmen, 1966	Appendix
21. Party Differences: ABAG Executive Committee Com- pared with Bay Area Supervisors and Councilmen, 1966	Appendix

M A P S

	Page
1. Bay Regional Assembly Districts	191
2. Bay Regional Senate Districts	199

PART ONE

PROBLEMS OF GOVERNMENTAL ORGANIZATION AS THEY AFFECT
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT

CHAPTER 1. INTRODUCTION

The Legislative Charge

The San Francisco Bay Conservation and Development Commission (BCDC) is charged by the Legislature with preparing a final report containing:

The comprehensive plan adopted by the Commission for the conservation of the water of the San Francisco Bay and the development of its shoreline.

The Commission's recommendation of the appropriate agency to maintain and carry out the comprehensive plan. 1/
(Emphasis supplied)

The Commission has a number of options. Its initial investigations could be restricted to possible governmental arrangements dealing with the shoreline alone, which would comprise a very limited list. These would include, first, no agency at all (and this would actually ignore the letter of the legislative charge), second, an existing special district or the Association of Bay Area Governments, or third, a new limited-purpose special district with only the functions of Bay and shoreline planning and development.

We believe the Commission will need to look beyond such limited organizational possibilities and consider a wide range of alternatives if it is to fulfill the spirit of the legislative charge. The Commission

1/ Cal. Stats., 1965, Ch. 1162 (Government Code Section 66651).

obviously must recommend arrangements adequate to implement the plan and keep it up-to-date, but BCDC must also contemplate the possible inclusion or coordination of many other regional functions and programs. Restriction of BCDC's initial investigations to the Bay and shoreline alone would fail to recognize the broad scope of the legislative policy declaration justifying the Commission's creation, which emphasized the multipurpose and interrelated nature of the problems confronted, as well as their regional character:

The Legislature hereby finds and declares that the public interest in the San Francisco Bay is in its beneficial use for a variety of purposes; that the public has an interest in the bay as the most valuable single resource of an entire region, a resource that gives special character to the bay area; that the bay is a single body of water that can be used for many purposes, from conservation to planned development; and that the bay operates as a delicate physical mechanism in which changes that affect one part of the bay may also affect all other parts. It is therefore declared to be in the public interest to create a politically-responsible, democratic process by which the San Francisco Bay and its shoreline can be analyzed, planned, and regulated as a unit.

The Legislature further finds and declares that the present uncoordinated, haphazard manner in which the San Francisco Bay is being filled threatens the bay itself and is therefore inimical to the welfare of both present and future residents of the area surrounding the bay;...and that further piecemeal filling...would...be harmful to the needs of the present and future population of the bay region.

...the study...should give consideration to the master plans of cities and counties around the bay...^{2/}
(Emphasis supplied)

^{2/} Ibid.

Current Interest in Comprehensive Approaches

Thus, investigation of only a limited number of governmental alternatives would not comply with the comprehensive intent of the legislation creating BCDC. Not only are all parts of the Bay itself interrelated, but also what happens in the surrounding region affects the Bay and shoreline, and vice versa. Nor would these limited organizational possibilities take cognizance of the current widespread interest in exploring comprehensive approaches to the solution of Bay Area regional problems. The Association of Bay Area Governments has sponsored a proposal for creation of a four-purpose agency, a modified ABAG. The Bay Area Transportation Study Commission and the Bay-Delta Water Quality Control Study are both charged with recommending organizational means of implementing their plans. Most important of all, the possible establishment of a multipurpose government in the Bay Area will be examined by the Joint Committee on Bay Area Regional Organization aided by an advisory committee (Senate Concurrent Resolution No. 41). In addition, other non-public organizations and agencies, such as the Bay Area Council, San Francisco Planning and Urban Renewal Association (SPUR), and the Leagues of Women Voters of the Bay Area are actively engaging themselves in discussions of regional problems and the possible need for a regional government.

In its study of governmental alternatives, BCDC should take advantage of this widespread interest in the exploration of comprehensive approaches to regional problems. Thus, BCDC can further its own aims, and give a

significant impetus to the other regional study efforts, by a thorough investigation of the range of organizational alternatives and their implications. Finally, the Commission's timetable does not permit it to "wait and see" what may come of the other study efforts. If the latter do not produce acceptable solutions by the beginning of the 1969 legislative session, BCDC will still be responsible for recommending an agency capable of implementing the Bay plan and keeping it up-to-date.

The Array of Problems

The array of regional problems and functions that BCDC must consider should be broad enough to include the political, administrative, and other public policy implications of Bay and shoreline planning for the many other regional activities and needs in the area. In making its institutional recommendations, BCDC should bear in mind that these proposals, if adopted, will have major long-term impact on the future of the region and its governmental structure. Once created, new institutions tend to be perpetuated, particularly if they serve a useful purpose. The nature of the institutional arrangement finally devised to deal with the Bay and shoreline (and possibly other functions) is not a minor or incidental matter. The new arrangement will, as a result of the way its governing body is constituted, plus the scope of the powers assigned, means of financing, and other features, largely determine the nature of public policies to be developed in up-dating the plan, modifying its conditions, and exercising powers of implementation.

Implications for the Future

The institutional arrangements should be carefully designed with a long time span and long-term goal in view. Population growth, technological change, and environmental modification have already put tremendous pressures on natural resources in urban areas. These pressures will increase in the future. Only institutions that are inherently strong, and deliberately structured for adaptability to unforeseen change, will be able to meet the long-term challenges of the future. This argues for the consideration of comprehensive institutional solutions rather than the adoption of provisional makeshifts.

Thus BCDC cannot afford to limit itself to the organizational implications of plans for the Bay and shoreline alone. It will need to consider the policy and organizational implications of other regional problems, programs, and functions, both those now institutionalized in some manner, and those likely to be institutionalized in the foreseeable future.

Although planning for the long-term future presents an almost insuperable task, two devices can help scale the job down to a reasonable size. First, the institutional arrangements recommended can be based on the best estimate of future regional problems and programs of the next five to fifteen years. Second, the institutions established can be designed to insure their later reexamination and possible modification if and when changed circumstances so require.

Already, therefore, a number of criteria are beginning to emerge. First, the institutional recommendations must be based on consideration of all the regional programs in existence or which are likely to be undertaken within

five to fifteen years. Second, the arrangements must take into account the interrelations among all regional activities and the complex ways in which different regional programs affect each other. Third, the minimum goal should be the best feasible coordination of regional efforts, and the maximum goal establishment of a comprehensive agency comprising them all. Fourth, a periodic objective review should be "built into" the system, to facilitate future modification, as needed. This would provide insurance against organizational obsolescence and the well-known phenomenon of institutional resistance to change.

A Central Task -- Analyzing Areas of Conflict

Among other things, this study poses some of the critical issues BCDC will have to consider -- the tough problems of organization, administration, and finance that must be confronted and resolved if the Commission is to complete its work satisfactorily. As noted above, these issues would include the interrelationships between existing and future agencies with major impact on current or probable future regional problems and programs. All these interrelationships involve actual or potential conflicts in future development and resource allocation. Hence they are surrounded by conflicts between interested parties, and many are highly controversial.

These conflicts and controversies, as well as the impact of different kinds of development, should be studied and analyzed. The review process must explore the policy implications of the different viewpoints and interests. This will shed additional light on the feasibility and probable results of various organizational and financial arrangements. Too often,

past public discussions and negotiations have not illuminated the real issues clearly, and the actual reasons for many decisions, or "non-decisions," have remained obscure, hidden beneath the cliches and "conventional wisdom" in which much public discussion of controversial matters tends to be clothed.

Organization of the Study

This study begins with an overview of the Bay Area's regionalism, which was established very early in California's history. Experimentation with various governmental arrangements is discussed briefly, bringing the review of Bay Area developments up-to-date. This should provide necessary perspective to facilitate evaluation of a variety of organizational approaches presented later in the study. Chapter III sketches general guidelines for further study and policy determination, including elements in the decision process, criteria and methods for establishing a regional policy-making body, leadership, functions and powers, financing, and relationships with other agencies. Part Two (Chapters IV-VII) reviews experience with and ideas about alternative approaches to metropolitan governmental organization in other metropolitan regions and the Bay Area, including a detailed examination of the recent Association of Bay Area Governments proposal, and two concrete suggestions for ways of choosing a Bay Area regional government. Part Three summarizes the findings and recommendations of the study.

As used in this report, "the Bay Area" means the nine counties bordering on San Francisco Bay. The authors believe that either a single- or a multi-purpose regional agency formed to carry out plans for the Bay

must include these nine counties. We note, however, the suggestions made by others that the geographic area included be either smaller or larger than the nine counties.

CHAPTER II. THE NINE COUNTIES' REGIONALISM: AN HISTORICAL OVERVIEW

An overview of the San Francisco Bay Area's development as a region, including a look at its history of experimentation with solutions to regional and subregional problems, is essential background for an understanding of the current situation and the continuing pressures for organizational change. The Bay Area covers some 7,000 square miles of land area, and contains approximately 4.5 million people. The region is thus nearly as large as the State of Massachusetts or New Jersey. Most of the population, however, is clustered near the Bay shoreline on relatively narrow plains ringed by hills: some 1,300 square miles comprise the "urban segment."

The Bay and the Region

The Bay itself has had a crucial role in directing urban growth. From the early days of American domination, beginning with the Gold Rush of 1849, the use of shallow-draught steam-powered boats knit together the various settlements around the Bay. The protected waters not only offered safe harbor for ocean-going vessels, but also served as an incomparable early-day means of local and regional transport. Thus, while the Bay separated the region's communities spatially, its strong sinews of waterborne communication and commerce gave the area a very real sense of economic interdependence.

As geographer James Vance puts it:

The San Francisco Bay Area was, from the beginning, characterized by an open extensive settlement pattern with a few major nuclei. . . and with large areas of intervening space. Spreading the population "thin" and carrying them about on water, the Bay Area metropolis was able to stake out the limits of its ultimate site, even by the mid-point of the nineteenth century. Subsequent events have merely filled in this initial frame.^{1/}

Thus, the Bay Area's "regionalism" was established very early, though most matters of commerce and government -- government below the state level -- were much too localized for treatment by a governmental entity as large as the Bay Area. The region was soon divided into nine counties for purposes of many local governmental functions, and individual cities were created to serve the dispersed but growing urban settlements.

Thus geography and historic circumstance, plus more than a century of growth, have made the San Francisco Bay Area one of the most complex metropolitan communities in the United States -- at least in terms of governmental organization. For comparison: Los Angeles County encompasses a population of 7 million persons in a single county, and has capitalized on that fact by transforming the county into an agency of regional and subregional government that, at least until recently, has been unique in the United States.

^{1/} James E. Vance, Jr., Geography and Urban Evolution in the San Francisco Bay Area (Berkeley: Institute of Governmental Studies, University of California, 1964), p. 35.

The existence of the dominant City of Los Angeles, with its approximately 460 square-mile area and nearly 3 million population, also provides a central governmental framework which has no counterpart in the Bay Area. The San Francisco Bay Area's 4.5 million people are distributed among nine counties -- thus precluding use of a county as a regional governing mechanism; and San Francisco, the largest city (a consolidated city-county), contains only 42 square miles of land area and 740,000 people.

Similar comparisons may be made with many other major metropolitan areas which have dominant central cities, or only one or two county governments, or both, giving each relatively well-defined centers of political power as compared with the Bay Area. For example, the New York region of 13 million population has at its core the great central city (in effect, a consolidated city-county) of 8 million; the Chicago area has a dominant central city and much of its metropolitan population is contained in Cook County, the same may be said of Pittsburgh and Allegheny County, Cleveland and Cuyahoga County, Miami and Dade County, and of many other urban centers.

This is not to deny the fact that almost all major metropolitan areas in the United States suffer from severe governmental fragmentation. But San Francisco suffers more than most. Paradoxically, however, the weakness has also been a source of strength: it has encouraged experimentation.

Experimentation: A Product of Diversity

The complexity of the Bay Area's governmental structure -- especially the absence of a single dominant county -- has made peculiarly difficult the handling of regional problems, the conduct of regional planning, or the construction of needed regional facilities. Several attempts to achieve comprehensive governmental reorganization by creating some kind of general purpose (or multipurpose) government in the region have met with failure.^{2/} The existing local governments have viewed such proposals as a threat to their autonomy, if not to their existence. This attitude, bolstered by the persistent Jeffersonian-Jacksonian tradition of the political primacy of local government has defeated all efforts at comprehensive reorganization.

Strong resistance has also come from various portions of the private sector. Many business firms, labor unions, and other groups with workable arrangements protecting their interests have preferred a less-than-satisfactory status quo to the uncertainties of comprehensive change. The existing "system" represents a complicated balance of power whose deliberate modification, except at a slow pace, many of the participants have viewed with concern. Nevertheless, almost all recognize that the problems of urban growth make some change essential.

^{2/} The efforts before 1948 are analyzed in John C. Bollens, The Problem of Government in the San Francisco Bay Region (Berkeley: Bureau of Public Administration, University of California, 1948).

Until quite recently, moreover, regional problems have tended to reach the critical stage one-at-a-time. The pressures to obtain new domestic water supplies for the region preceded by some years the demand to build the major bridges crossing the Bay. Similarly, awareness of the regional water pollution problem came several years before acceptance of the need for regional air pollution control. And the state was well along with the planning and construction of an urban freeway system for the Bay Area before community leaders decided to build a 75-mile rail rapid transit system.

Thus, regional problems have been confronted singly and solved individually through a variety of mechanisms. Further, the personnel of civic and governmental leadership which developed solutions differed markedly from problem to problem, making for further diversity. Whatever may be said of such a piecemeal policy of ad hoc solutions versus a comprehensive solution, the recent history of the Bay Area represents a great deal of governmental experimentation.

Without attempting a full enumeration of the regional and sub-regional institutions created, the most important ones are listed here in the chronological order of their dates of establishment: East Bay Municipal Utility District (1923), Golden Gate Bridge and Highway District (1928), East Bay Regional Park District (1934), San Francisco Bay Regional Water Pollution Control Board ^{3/} (1949),

^{3/} Now renamed Water Quality Control Board.

Bay Area Air Pollution Control District (1955), Alameda-Contra Costa Transit District (1956), San Francisco Bay Area Rapid Transit District (1957), West Bay Rapid Transit Authority (1964), and Marin County Transit District (1964).

The Governor's Commission: 1959-1961

After 1957 there was a temporary halt in the establishment of permanent new regional entities, and an effort was made to reevaluate the situation. ^{4/} A Governor's Commission on Metropolitan Area Problems was appointed in 1959. Its report to the Governor and Legislature in 1960-61 urged the creation of one multipurpose regional district in each of the state's metropolitan areas, to be responsible for regional planning^{5/} and at least one additional function taken from the following list: (1) air pollution control, (2) metropolitan water supply, (3) metropolitan sewage disposal and drainage, (4) metropolitan transportation, terminals and related facilities, (5) metropolitan parks and parkways, (6) metropolitan law enforcement functions, (7) metropolitan aspects of fire protection, (8) metropolitan phases of urban renewal, (9) civil defense, and (10) any other areawide function requested by the

^{4/} There was, however, no lull in activity. In addition to the efforts of the Governor's Commission, several groups were pressing for various kinds of action, as will be noted below.

^{5/} The Commission was recommending advisory regional planning only. In California, the "police" power of zoning and land use control traditionally rests with the municipalities for areas within city limits and with the counties for areas outside the cities.

residents and leadership of the individual metropolitan region concerned.

In order to implement this proposal, the Commission recommended that the state Legislature authorize establishment of a multipurpose district by majority vote within each of the state's metropolitan areas. Such a district would have been governed by a council selected by, and from the membership of, the governing bodies of the cities and counties within the district. This recommended pattern of constituent-unit representation was derived largely from experience in the Bay Area (see below pages 38 to 41, for a discussion of this experience).

The proposal, although imaginative and potentially of great significance, proved unacceptable. It met first with relative indifference and later with a wave of hostility. The officials of many small and medium-sized cities, in particular, opposed the creation of something they referred to as "metropolitan supergovernment." This emotive term evidently suggested to many that one single government would be established in a metropolitan area, replacing and absorbing all existing local governments.

Obviously the Governor's Commission was proposing something quite different. No responsible leader has ever seriously suggested a change as drastic as the creation of a single unitary government for a region as large and diverse as the Bay Area. But the "super-government" label helped crystallize concern that the multipurpose

district might alter some of the existing power relationships -- as it almost certainly would have done. In any event, pressure from the two associations representing California's city and county governments effectively shelved the proposal. But the Commission's deliberations did help focus attention on the Bay Area's experimentation with regional machinery of government through 1960, and afforded an opportunity to assess the consequences.

Developments: 1960-1966

Despite the post-1957 lull in forming new regional districts and the state's failure to enact the metropolitan multipurpose district proposal, some extremely significant new developments in the Bay Area have occurred since 1960.

1. The Association of Bay Area Governments

First among these developments was the creation of the Association of Bay Area Governments (ABAG) in 1961. This move was stimulated, in part, by powerful efforts in 1959 and 1961 to establish still another permanent special district in the Bay Area: a "Golden Gate Authority," later called "Golden Gate Transportation Commission," which would have had jurisdiction over the toll bridges, and authority to acquire or build seaports and airports. Although the 1961 proposal contained many good features and received strong support from parts of the business community, its dependence on revenue bond financing was questioned by many observers. In addition, some officials opposed it as constituting a threat to their

locally-owned seaports and airports. Others fought the move because they considered its proposed use of the region's bridge tolls to support airport and seaport development illogical and unwise. This financial arrangement would have established a close linkage between rather unrelated forms of transportation, while leaving out transportation modes (i.e., various forms of transit) more directly related to the money-making bridges.

The 1959 proposal resulted in a study commission and a report to the legislature urging creation of the "Golden Gate Transportation Commission."^{6/} The 1961 bill was narrowly defeated, primarily through the efforts of the chairman of the Senate Transportation Committee. But the proposal's real or implied threat to local governments in the Bay Area, and its demonstration that they were poorly organized to influence proposals affecting the Bay region, hastened the creation of the Association of Bay Area Governments.

The Association began essentially as an agency for research, study, and discussion of mutual problems. A voluntary organization, but with legal status, it was formed by intergovernmental contracts under California's "Joint Exercise of Powers Act."^{7/} All cities

^{6/} California. Golden Gate Authority Commission, Final Report on the Feasibility of a Regional Agency to Coordinate Transportation Facilities. . .with Recommendations for a Golden Gate Transportation Commission for the San Francisco Bay Area (February 1, 1961).

^{7/} California Government Code, Section 6500-6578

and counties in the Bay Area are eligible to join, and eight of the nine counties and 87 of the 91 cities are now members. The Association is governed by a General Assembly consisting of one representative chosen by and from the governing body of each member city and county (the constituent-unit principle). City and county representatives vote separately, however, and a majority of a quorum of each is required for action. Thus, the Assembly is essentially a "bicameral legislature meeting in a single room." A smaller Executive Committee of 21 members provides continuity and conducts the organization's affairs under policies established by the General Assembly.^{8/} The Association is financed by annual assessments levied against all member governments on a population basis.

Shortly after ABAG was established, the Berkeley city representative requested that the organization support proposed legislation creating a San Francisco Bay Area Regional Planning District. This proposal was considered by the Association, but was rejected in favor of an ABAG-sponsored attempt to accomplish regional planning by coordinating the planning activities of the area's individual cities and counties. With tremendous effort, city and county planning staffs contributed their time to ABAG in an attempt to inventory existing plans and prepare a single nine-county base map.

^{8/} At this writing, the Association is considering enlargement of the Executive Committee to 34 voting members.

Difficulties encountered in this first step toward "regional planning" convinced most local officials that effective planning would require a staff employed by ABAG. In 1962 ABAG endorsed the proposal that the Association itself become the area's advisory regional planning agency. At the same time an application was made to the U.S. Housing and Home Finance Agency (now absorbed by the Department of Housing and Urban Development), for urban planning assistance funds, to be supplemented by local contributions in money or staff time. An initial federal grant of \$170,000 was announced in February, 1964. Subsequent federal, state and local support enabled ABAG to employ a full- or part-time staff of 13 persons, and to produce a preliminary regional plan in November, 1966. ^{9/}

2. The Transportation Study Commission

Meanwhile a large committee comprising business, government, and civic leaders had been working to promote a comprehensive program of transportation planning for the Bay Area, also to be financed primarily by federal funds. A proposal approved by the state Legislature and Governor in a 1963 act created the Bay Area Transportation Study Commission (BATS). This Commission has 37 members, 19 of whom are representatives of the cities and counties and of ABAG. In effect, the ABAG Executive Committee sits on the

^{9/} Association of Bay Area Governments, Preliminary Regional Plan for the San Francisco Bay Region (November, 1966).

Commission, affording a basis for close liaison between the two planning efforts.

Through BATS, U.S. Bureau of Public Roads money is being made available, and through ABAG, federal Department of Housing and Urban Development funds are being contributed to the joint planning endeavor. Because BATS is a temporary agency established only for the initial crash program of transportation planning, the BATS legislation provides that the study commission "shall take steps to provide for an orderly transition of its responsibilities to appropriate permanent agencies...." To this end, BATS is directed to give first consideration to existing agencies, but "if the study commission finds that the purpose and intent of this section may be advanced thereby, it may make studies and develop recommendations for a possible reorganization or realignment of responsibilities of public agencies dealing with transportation problems in the Bay Area." 10/

3. The Commission on Bay Filling

While plans for the joint ABAG-BATS program were being laid, another regional problem of major proportions was beginning to arouse intense public interest. The filling of shallow portions of the Bay to create new land for residential and industrial sites had been increasing and threatened to accelerate sharply. Vocal

10/ Cal. Stats., 1963, ch. 911 (Government Code Secs. 66500-66515).

citizen concern resulted in the creation of a special study commission to make a preliminary investigation. Early in 1965, the study commission reported to the Legislature that a serious problem did indeed exist and recommended a new temporary agency to deal with it.^{11/} The Legislature and Governor responded by establishing the San Francisco Bay Conservation and Development Commission, which was instructed to prepare a comprehensive and enforceable plan for the Bay and its shoreline.

The prestige of ABAG has suffered somewhat from these events. When the issue of Bay filling first arose, ABAG had difficulty arriving at a consensus on policy. Member cities and counties with extensive fillable shallow Bay lands were reluctant to forfeit opportunities for what they believed to be potential additions to their economies. As the controversy grew heated, however, some local governments realized that all would lose if unrestricted filling were continued indefinitely and at an accelerated pace. ABAG finally supported the idea of a state-imposed system of regulation, but urged that it be administered by the Association. This suggestion was not accepted, because several interested parties, including the state (which owns half the Bay), believed the proposal would result in weak enforcement.

Instead, the Bay Conservation and Development Commission (BCDC) was established. Nevertheless, local governments and ABAG presumably

^{11/} California. San Francisco Bay Conservation Study Commission, A Report To the California Legislature (January 7, 1965).

have a measure of influence on BCDC. Three members of the 27-man Commission are appointed by ABAG to represent the cities of the Bay Area. Nine more are appointed by each of the county boards of supervisors -- one to a county. BATS, which is closely tied to ABAG and local government, appoints one representative. The remainder of the Commission consists of two representatives of the federal government, four of state governmental agencies, one from the Regional Water Quality Control Board, and seven "representatives of the public," five of which are appointed by the Governor and one each by the Senate Rules Committee and the Speaker of the Assembly. These complicated and seemingly unwieldy arrangements were necessary to accommodate the unusually wide range of groups and agencies that are concerned with the Bay and its future.

4. A Plan To Avert Large-Scale Water Pollution

Waste waters from reclamation and drainage projects in California's Central Valley, and the fertilizers and pesticides they carry, have a potential for serious pollution of the Bay waters. This threat resulted in another ambitious program, which was launched by 1965 legislation designed to avoid large-scale pollution of the Bay waters and those of the Sacramento and San Joaquin River Deltas that feed into the Bay.^{12/} To guide the San Francisco Bay-Delta Water Quality Control Program, a steering committee was created

12/ Cal.Stats., 1965, ch. 1351.

representing BCDC, ABAG, four regional water quality control boards, nine interested state agencies, and the two houses of the Legislature. In addition, a technical committee has been created representing the above agencies, the University of California, several agencies of federal government, local governments, and private industry.

As was suggested before, the Bay Area may be engaged in the process of converting an inherited governmental weakness into a policy-making strength. The weakness: governmental complexity and the absence of any dominant institutional framework to take the lead in solving regional problems. The strength: experimentation with regional solutions is made both easier and more necessary because there is no dominant center and the region's governmental structure has not "frozen" into the relative immobility characteristic of many areas.

Geography, climate, history and assorted good fortune have made the Bay Area one of the choice places for human habitation on this planet -- or so most residents fondly believe. And believing this, they are convinced they have a great deal to lose from uncontrolled growth. The public is finally beginning to realize that our ever-more-powerful technology and economy have unleashed formidable and increasing forces tending to modify the environment. Many Bay Area leaders now see that much of the region's excellence will be destroyed unless strong public and private countermeasures are undertaken.

This is what the current flurry of activity is all about, with the varied array of commissions and committees, and large cast of characters. A great deal is at stake, but with statesmanship and luck, California and the Bay region may be able to initiate the necessary processes of comprehensive planning and control. In this effort, not only should the Bay Area's own experimentation be drawn upon, but also thought should be given to the experience of other areas with different approaches to governmental reorganization. Valuable positive and negative guidance -- i.e., suggestions as to what might be attempted as well as hazards to be avoided -- may be obtained from others' accomplishments and failures. This material is summarized in Part Two (Chapters IV and V). Before reviewing experiences elsewhere, however, we present in Chapter III a discussion of guidelines for analyzing the governmental issues in the Bay Area -- indeed of any metropolitan region.

CHAPTER III. SOME GUIDELINES FOR FURTHER STUDY AND DECISION

This chapter opens with a discussion of criteria that should be relevant to any governmental agency proposed, whatever its functions and powers may be. These guidelines, which are stated in general terms, will be useful in evaluating organizational proposals limited to Bay conservation and development, as well as more broadly based, multipurpose regional governmental concepts. Potential major policy determinants are then reviewed, the implications of representational systems analyzed, and some concrete possibilities sketched. Next, the dimensions and demands of the regional legislative responsibility are outlined, and the critical problem of leadership examined. The chapter closes with a review of the range of functions that might be assigned, the scope of organizational and financial choices available, and possible relations with other governments.

Criteria for Any Regional Government

An effective regional governmental agency must be able to search out needs in its area of concern, formulate proposed programs, and insure full consideration and public disclosure of all the implications of the proposals. Then, after due discussion, the agency must be able to reach decisions on highly controversial issues. It must also have the authority and financial resources to implement those decisions.

1. Full Analysis and Disclosure

All aspects of proposed programs and their probable implications should be examined carefully before final decisions are made. It may be as important to analyze and disclose the implications of a negative decision as of a positive one. In other words, the decision process should be designed to consider the effect on the Bay Area of both action and inaction. Also, the arrangements for thorough study should be explicitly for that purpose. The study machinery should not be converted into a mechanism for unnecessary delay or the exercise of vetoes.

Thus searching study and analysis are essential to the decision process. Many examples could be given of incomplete analysis of the implications of proposed new programs, as well as incomplete disclosure of all relevant information. In fact, deliberate failure to publicize may be practiced as a means of getting an action either accomplished or blocked. But the implications of public sector actions should always be analyzed and publicly reported prior to final decision. This does not, of course, mean day-to-day reporting of all plans and negotiations; it does mean disclosure before a public action has become an accomplished fact, and, in effect, irreversible.

Without this, public decision-making may become "one-upmanship," the outcome depending on which group manages to obtain an advantage over another by guile, stealth, intrigue, or simply by outwitting the "other side." In the private sector nondisclosure is part of the game, and is even protected by law, e.g., census and income tax nondisclosure

protection. In the public sector such nondisclosure is normally contrary to the public interest. Any new governmental system to deal with regional problems in the Bay Area should be designed so as to minimize if not eradicate the practice of achieving "public" policy decisions by inadequate analysis or nondisclosure of their consequences.

2. Representation of "Interests"

The policy body itself should not deliberately contain representatives of special interests. Representation of interested parties, as such, can be best accomplished through the hearing process, through advisory councils, or perhaps through ad hoc committees established to consider specific questions. Interested representatives could be placed directly on the advisory councils or committees. This has both advantages and disadvantages. It would insure the representation of specified interests, but the advisory council might become largely a sounding board for the expression of interest viewpoints, rather than the watchful guardian of the penetrating and wide-ranging review function envisioned above. Probably the better way to handle the problem would be full and fair public hearings during which interest representatives appear before the policy body, or before an advisory council, or special ad hoc committees.

3. Careful Study -- But Leading to a Final Decision

Ample study and consideration of all interests and alternatives should not be permitted to postpone final decisions indefinitely. The major aim is to develop a feasible and workable process for coming to grips with issues, developing solutions, and implementing

decisions. Among other things, this suggests minimizing the number of persons or groups holding the power of veto, if the new decision process is to result in action.

4. Relating the Process to the Need

The findings and accomplishments of science and technology make it clear that the many systems operating in the region -- physical, social, economic, ecological -- are deeply and increasingly interrelated. Almost anything done in one field in any part of the Bay Area has an influence in other fields and throughout the Bay Area. Good policy decisions must be based on the fullest possible understanding of their ramifications.

The finest and most up-to-date tools of data processing, model building and systems analysis should be available to the agency or agencies charged with the overview function on major regional questions. Proper use of such resources as part of an appropriately designed political decision process, could go far toward eliminating unforeseen or undisclosed adverse impacts of new policies.^{1/}

a. Goals: The End Product

But the technology of systems analysis alone will not provide adequate solutions to the policy and planning problems to be faced by the region. Painful, difficult, and hard-headed work must go into the quest for regional goals if the agency or agencies in charge are to do more than preside over partially coordinated processes of strangulation

^{1/} Melvin M. Webber, "The Roles of Intelligence Systems in Urban-Systems Planning," Journal of the American Institute of Planners 31: 289-296, November, 1965.

and environmental degradation. The following are needed if planning is to be effective: goals^{2/}; powers of land use control; financial authority; such additional police powers as may be necessary to handle regional, interacting systems; and governmental mechanism(s) for making decisions and carrying them out.

b. Implementation: Many Levels

Perhaps the same mechanism(s) that set the goals can carry them out. On the other hand, there are many "levels" of goals, ranging from decisions on major, long-term regional policies to matters primarily of local concern. Thus more than one level of goal-setting mechanism would appear both inevitable and desirable.

Some basic large-scale goals can be adopted as fundamental regional guidelines. The more detailed goal decisions at the local level must be accommodated within these guidelines, through (1) persuasion, (2) exercise of the police power at the regional or state level, (3) regional or state-level fiscal transfer payments, or (4) combinations of the first three.

5. Accountability

A legislative policy-making body should be both accountable and responsive, while retaining sufficient independence and authority to confer effective decision capability. "Accountability," as the term is employed here, means a generalized ultimate responsibility to the

^{2/} See for example: John W. Dyckman, "Social Planning, Social Planners, and Planned Societies," Journal of the American Institute of Planners 32:66-76, March 1966; also the article in the same issue by Robert C. Young, "Goals and Goal-Setting," pp. 76-85.

public served. Its converse would be a long-term or permanent insulation from the influences of public opinion.

6. Responsiveness

"Responsiveness" must be differentiated from accountability.

Responsiveness suggests a willingness to consider the views and desires of various affected interests and groups during the process of policy development. Thus responsiveness relates to the degree to which the legislative body responds to pressures from interested parties.

7. Decision Capability

The final term, "decision capability," refers to the capacity of the legislative body to make and implement a firm and final decision on a public policy matter, once the evidence is heard and adequate public discussion has taken place. Responsiveness and decision capability may be viewed as partially countervailing tendencies. That is, a legislative body relatively insulated from pressures and possessing adequate authority is likely to manifest a high level of decision capability -- of freedom to "get on with the job" regardless of stiff opposition. This can be good and constructive, yet if carried too far, may result in arbitrariness or failure to consider the impact of the agency's decisions on other agencies and interests in the region.

But a legislative body that is overly sensitive and responsive to current pressures from interested groups may be unable to make the hard positive decisions necessary to develop and implement new public policies. Additional problems are created when the body is responsive to pressures of certain groups but not others. When this

occurs, and adequate disclosure does not redress the balance, the public interest may not be well served.

Thus the need for decision capability partially conflicts with the need for a degree of responsiveness. The aim should be accommodation of both requirements through an appropriate balance. The region needs a policy-making body with the ability to decide difficult and controversial issues, but it also must be protected against the risk of creating an excessively independent, unresponsive, and potentially irresponsible agency.

Determinants of Policy

The policies of an organization are determined by a multitude of influences, including the scope of questions and controversies confronted, the system of representation employed, the terms on which financial resources are made available, and the functional responsibilities assigned.

1. Questions and Controversies: The Bay Alone

Why is "the controversial Bay" -- and the question of filling Bay tidelands -- an object of such intense conflict? In a sentence, it is because there are so many diverse interests concerned with Bay filling, on one hand, and with Bay and shoreline conservation, on the other. One of the great pressures for Bay filling is the potential high value of close-in "made" land. Long-term owners of submerged lands -- with clear or clouded titles -- as well as recent speculative investors, stand to gain from the large appreciation in value that occurs when filling and development are permitted. Prospective developers also have

an interest, because made land gives them a place to locate new housing or industrial parks.

Local governments may consider filling a means to make room for future growth and thus to enhance their tax bases. Bay fill can provide a relatively cheap location for new freeways because it avoids the need to acquire right-of-way in built-up areas. Also, Bay frontage has been widely used for garbage and refuse disposal. Tideland filling has provided for expansion of airports and seaport facilities. Furthermore, filling has been employed to dispose of spoils from dredging operations.

Powerful pressures are also working against further Bay filling, except on a small-scale and highly selective basis. One of the most important sources of counter-pressure is grounded in a combination of esthetic-psychological-economic factors. The Bay is perhaps the most important and unique open space feature of the region, which gives it form and character. The physical beauty of the area is primarily dependent on its topography, i.e., the hills, the flatlands and the Bay itself. Psychological awareness of the Bay -- whether directly through observation from vantage points, or implicitly in the knowledge that "it is there" to be viewed and enjoyed at leisure -- is one of the reasons why so many residents consider the Bay Area one of the finest places to live in the United States. And these very real but imponderable factors translate into economic values, i.e., the ability of the area to compete effectively in national specialty labor markets, the value of view lots, and so forth.

The Bay is one of the crucial reasons why the urbanized community of the nine counties has grown up in a relatively dispersed pattern, with "elbow room" and a sense of spaciousness. The Bay has shaped the "Area." And the Bay as permanent open space can help to limit the future congestion which a filled-in Bay would permit.

Conservationists view the Bay as a major natural phenomenon worthy of preserving, not unlike Yosemite, Lake Tahoe, or the Redwood stands. It is an important wildlife preserve and a crucial link in the Pacific Flyway for migratory birds. Directly or indirectly the Bay supports a recreational and commercial fishery of major magnitude. The mudflats are an important source of nutrients for aquatic life, and the salt water-fresh water gradations in the Bay's estuaries are essential to the life cycle of anadromous fish, which must migrate from the sea to fresh water at spawning time. The Bay and its shoreline also possess actual or potential recreational uses of very great value: for sailing and boating, for beaches, waterfront parks, marinas, etc.

Proximity of the active Hayward and San Andreas earthquake faults have raised serious questions regarding the wisdom of filling and building on tidelands. Under certain conditions, structures on such land are prone to earthquake-caused damage.^{3/} Finally, further extensive filling of the Bay's shallow areas would adversely affect the region's climate, temperature ranges, and air pollution.

^{3/} San Francisco Bay Conservation and Development Commission, Fill: Three Reports on Aspects of Fill in San Francisco Bay (May, 1967).

This brief discussion only outlines some of the major interests in the Bay and tidelands. It does, however, indicate the range of concerns which make "the controversial Bay" one of the most fascinating, frustrating, and significant land-use policy issues now confronting the region.

2. Questions and Controversies: The Bay Plus Other Regional Issues

Considerations affecting the Bay obviously do not terminate at the shoreline. They include the whole continuum of problems and issues confronting the region. The question of Bay fill affects the location and enlargement of port and airport facilities, as well as of freeways. It has a direct impact on the future of solid waste disposal in the region. The Bay is a variety of open space, different in character but related to the other kind of open space -- the hills and mountains. Together these open spaces have a major role in determining the form and quality of life in this urban region. These are only a few examples of the multitude of interrelationships between the Bay and the region.

Furthermore, complex interrelationships increase when a multi-functional agency is considered to control Bay fill and to accomplish other regional purposes. In addition to Bay conservation and development, functions most frequently discussed in the Bay Area for possible treatment by a multipurpose agency include regional planning, solid waste disposal, open space and parks, air and water pollution control, and transportation. Beyond these, it is conceivable that "wholesale" aspects of many other public functions could be handled on a regional basis, including but not limited to water supply, education, housing

and renewal, police, fire protection, finance of major capital facilities, and so forth. The realm of functions regionalized will delineate the scope of new questions and issues presented. These will, in turn, both influence and be resolved by the public policy determinations finally made.

3. Representation as a Policy Determinant

Additional considerations beyond the generalized criteria discussed previously enter into the representation equation and will act as powerful policy determinants. Especially important is the expression of regional vs. local viewpoints. Some people tend to take a regional view of things; others tend to give priority to matters of immediate concern to themselves and their local communities.

What factors are involved in a person's outlook, especially as it might be reflected in the policies of a regional legislative body of which he is a member? The internal value system of the individual is important, of course. This is the cumulative result of all his past experience. The external influences brought to bear upon him by friends and business or professional associates, as well as his means of earning a livelihood, will help determine his policy positions. The method of selecting a local or regional representative and the nature of the constituency to which he is responsible will be influential. Long-term tenure may give a representative sufficient security and confidence to express a regional view, and, when occasion demands, to rise above local interests bringing pressure on him.

For a variety of reasons one individual may consider himself primarily a resident of a region, while another may concentrate on

localized social or business interests that determine his outlook. Businesses whose markets are regional in scope may impart to their staff a regional outlook in public matters. Thus the young, upward-mobile business executive may be a good candidate for a post requiring a regional outlook. On the other hand, he may be too single-mindedly concerned with personal advancement to take controversial stands on public issues. Or he may fear that time devoted to public service will jeopardize his future in private enterprise.

Both local and regional interests embody values deserving consideration and reasonable representation. How should they be weighed and balanced? Direct involvement of locally oriented individuals is one means of protecting local interests. But this may impede regional programs if the "locals" are strictly negative. On the other hand, their involvement may be useful (1) as a means of expressing legitimate views, (2) as a method of educating them to the reality of regional needs, and (3) as a means of communicating regional feedback to their fellow "locals".^{4/} If the "locals" dominate, however -- or even exercise a minority veto power -- regional programs probably will not be implemented. This must be kept in mind when evaluating concrete proposals for establishing systems of representation.

Different systems of representation will thus bring forth different mixes of viewpoints and result in the adoption of different policies. In other words, representation is a critical matter.

^{4/} The acceptance by ABAG members of the need for regional planning in the Bay Area is, in part, a result of the direct involvement of local councilmen and supervisors in the Association's planning effort.

4. Other Policy Determinants

In addition to representational systems, there are still other policy determinants. Methods of finance and the scope of functional responsibilities are significant factors. For example, if an agency is given no taxing power or other independent revenue sources, but is required to finance its activities on a commercial basis, this will go far toward determining what projects it will or will not undertake. An agency limited to revenue bond financing cannot be expected to undertake costly capital outlays unless there is clear evidence of the installation not only being self-supporting, but also producing sufficient surplus to pay off the bonds. Similarly, an agency given responsibility for a single function -- or a limited geographic area -- will behave differently from one charged with several functions -- or a large geographic area. In part, this is a matter of institutional jurisdiction, and in part of financial arrangements and constraints. In part, also, this relates to the influence of agency staff members, who have an interest in the organization's continued existence (and their jobs), its growth, and appearance of success. The important point is that finance and responsibilities are important determinants -- along with systems of representation -- of the policies an agency will enunciate, as well as what it will actually do or fail to do.

Representation: Constituting the Policy-Making Body

An imaginative governmental draftsman with a penchant for speculation could devise dozens of organizational arrangements for choosing a regional policy-making body. Nevertheless, most of these are

variations on a few well-known and familiar organizational themes that will be explored in Part Two of this report. Some of the alternatives and their probable consequences are now outlined briefly.

1. Constituent-Unit Representation

The Bay Area's own experience provides an instructive commentary on the possible uses of the constituent-unit principle of representation. After many experiments with various forms of regional and subregional organization, by 1960 a school of thought had grown up in the San Francisco Bay Area about the desirability of various kinds of areawide governmental organizations.^{5/} It may be summarized as follows:

The continued creation of separate and independent regional or metropolitan special districts will make it increasingly difficult to deal with interacting or regional public problems, services, and facilities. Hence, according to this view, some attempt should be made to design a single multi-purpose agency, to which any new regional functions could be assigned. This would consolidate the various regional activities, and make certain that fiscal and other requirements of

^{5/} For a discussion of Bay Area experience to 1960, see: Stanley Scott (ed.), Metropolitan Area Problems (Berkeley: Bureau of Public Administration and University Extension, 1960), pp. 20-25.

each function would be considered in the context of all the remaining needs of the area -- and by an agency capable of taking or initiating action.

All major regional public functions closely affect and interrelate with the local activities and interests of the basic units of government in the metropolitan area -- the cities and counties. For this reason, close coordination between the cities and counties, on the one hand, and any regional agencies, on the other, is essential to effective operation. One way, although not the only way, of facilitating coordination between the regional agencies and the cities and counties is through the selection of governing bodies by means of "constituent-unit representation." This arrangement can take many forms as long as it provides for a federated structure in which the basic units of local government (cities and counties) are represented on the governing board of the regional district. Constituent-unit representation has the advantage of building into the regional district's structure a mechanism likely to insure its close coordination with the local governments.

In the Bay Area, the constituent-unit principle was first embodied in the air pollution control district, established in 1955. Another version was incorporated in the rapid transit district, established in 1957. The principle also underlay the unsuccessful

multipurpose metropolitan district recommendation of the Governor's Commission on Metropolitan Area Problems.^{6/} It has since been employed as a basis for the Association of Bay Area Governments, the local agency formation commissions, the West Bay Rapid Transit Authority, and the Marin County Transit District. Elements of constituent-unit representation are also found in the ad hoc Bay Area Transportation Study Commission and San Francisco Bay Conservation and Development Commission.

The Bay Area's constituent-unit approach was based on the assumption that the governments thus formed would be single-purpose in scope. Late in 1966, however, the Association of Bay Area Governments approved a statement by its Goals and Organization Committee urging extension of the principle -- as embodied in a modified ABAG -- to three new governmental functions, in addition to the regional planning effort now in progress. At the same time, ABAG approved a statement that a suggestion for absorption of BCDC and other regional bodies by the reorganized ABAG "should be given high priority for study, discussion and decision. . . ."

^{6/} The Governor's Commission appears to have considered the constituent-unit principle to be transitional, and commented as follows in the report of December 1960: "The Commission recognizes that as a metropolitan area multipurpose district is given an increasing number of functions it may be desirable to have some or all of the members of the metropolitan council chosen directly by the electorate in order to broaden representation by a cross section of groups in the metropolitan area...." (Emphasis supplied)

Some implications of this proposed extension of the constituent-unit principle to a multipurpose Bay Area Government are examined below at pages 53-56 and 120, and in Chapter VI.

2. Appointment by the Governor

Appointment of the entire membership of metropolitan or regional governing bodies may be appropriate in certain situations, but none of these situations is currently present in the Bay Area; therefore, gubernatorial appointment of the entire membership has been and is now rejected as a concept.

The circumstances which could make gubernatorial appointment of such a body appropriate are:

(1) When the metropolitan area reaches into two or more states (example: the New York Metropolitan Area, which includes parts of New Jersey and Connecticut).

(2) When one major metropolitan area in a small state contains a large portion of the state's population (Boston and Massachusetts).

(3) When there are "up-state vs. down-state" political splits, the metropolitan area being dominated by one political party and the state government by another (Chicago and Illinois).

(4) When special or unique situations exist, or existed in the past. (For example, the Port of San Francisco was taken out of the hands of the municipal government approximately 100 years ago, partly because the local officials of that time were not considered trustworthy.)

3. Direct Election

Direct election is the prevailing method of selecting what we hope are accountable, responsive and vigorous legislative bodies to govern general-purpose public agencies -- the city councils, county boards of supervisors, state legislatures, and the U.S. Congress. Clearly direct election would be the preferred method for selecting accountable, responsive and vigorous multipurpose regional governments.

But as noted below, the success of the electoral process depends upon the importance and "visibility" of the agency whose members are elected, on the methods of filling vacancies, on the size of the electoral district, the closeness of contest, and upon partisanship or lack of it. Generally, direct elections of members of single-purpose district boards have rarely involved real contests or summoned the sustained popular attention necessary if direct election is to be effective. While directly elected single-purpose regional policy-making bodies have proven in many instances to be very high in decision capability, they are often low in responsiveness to outside pressures (at least to those publicly expressed), and because the elections are not contested, practically speaking they are not accountable to the public. Possibly a single-purpose agency with important responsibilities and extensive regulatory authority -- such as control of Bay conservation and development -- could call forth enough attention and

involve such a multiplicity of interests that direct election of its members would work. But we have no experience in the United States with single-purpose districts possessing such extensive regulatory power. So, although we insist that multipurpose districts or governments must have a substantial proportion, at least, of directly elected members, we believe that the governing body of a single-purpose regional agency probably should not be directly elected. Any future move to create a single-purpose district governed by directly elected officials should be approached cautiously, and should be employed only as a last resort, subject to carefully designed safeguards.

Whether a decision is made in 1969 or at some later time, the problem of designing a regional agency that will be accountable, while maintaining an appropriate balance between responsiveness and decision capability will have to be considered in depth. The matter is much more complicated than simply choosing among the three methods of selecting board members (1) by direct election, or (2) by appointment by the Governor, or (3) by indirect election (the constituent-unit method).

We shall return (on page 52) to the possibility of combining, in the regional legislative body of a multipurpose agency, members selected by two or more different methods. At this point, however, let us examine in detail the factors influencing the effectiveness of direct election.

a. Political Visibility

An agency whose political "visibility" is low cannot be expected to generate much interest or awareness on the part of voters. Visibility may be influenced by many factors, but one of the most potent relates to the number and importance of the functions with which the agency is entrusted. And importance means more than the real significance of the agency's decisions to the community. That is, the agency must not only be important, it must be seen to be important to the voter. The voter's image of an agency may not coincide with the actual significance of its decisions on the future of the region. Image, for example, is influenced by such matters as the treatment of an agency's affairs by mass media. If the media tend to ignore the agency, voters do not know about its activities, and voter interest in elections will be low.

b. Choosing Replacements.

Under some arrangements, midterm vacancies are filled temporarily by appointees selected by the remaining members of the governing body. If the person selected runs for the office at a subsequent election he is listed as an incumbent. Incumbents are seldom defeated in elections involving low political visibility. Consequently the practice encourages autonomy and self-perpetuation. The appropriate antidote is a requirement of midterm elections to fill vacancies, or a provision for interim appointment by an independent outside official or agency.

c. Size of Electoral Districts

Influence of the size -- in area or population -- of the electoral districts is a complex matter depending on many circumstances. A few of the more important will be reviewed here. First, the larger the district, the lower will be political visibility, unless the post is viewed as very important and the election contests are traditionally hard fought.

Second, the larger the district, the greater will be the influence of the major mass media -- and of persons or groups with the ability (including sources of finance) to make effective appeals to the voters through the mass media.

Third, the larger the electoral district, the greater will be the effort and expense of conducting an effective campaign. Unless campaigns are supported from public sources, the need for assistance can increase a candidate's vulnerability to influence by those (1) who have the necessary funds and (2) who have a financial interest in the outcome of the agency's policy decisions.

Fourth, the smaller the district, the greater will be the influence of localized forces within the district, i.e., community newspapers, formal or informal community power structures, and concentrations of racial and ethnic minorities, or other geographic concentrations of persons having like interests and socioeconomic characteristics.

Fifth, small districts may consequently make for parochialism, while large districts may encourage candidates to give greater attention to regional matters.

Sixth, large electoral districts may tend to dilute the influence of concentrations of minority voters. The difference between the number of non-Caucasians in the Bay Area's nine-member Senate delegation (none) and that of the eighteen-member Assembly delegation (three) is a concrete example of this force at work.

Seventh, on the other hand, if a large-district election is closely contested, cohesive minorities may constitute extremely influential "swing vote" factors that can determine the outcome of the election. If the "swing vote" phenomenon is to be effective, however, the elections must be contested and the races close. Low political visibility, nonpartisanship, the advantage of incumbency, and gerrymandering to produce "safe" seats can all operate to reduce the effect of the swing vote.

The significance of size is also related to the demographic composition and residential patterns of the area. For example, a large district in portions of San Mateo or Marin counties might be comparatively homogeneous. On the other hand, a district cut from a few city blocks in Oakland, San Francisco or Berkeley could be designed to approximate a cross section of the population. Lines in the core areas, however, could also be so drawn as to group Negroes in one district, upper-middle-class whites in another, lower-class whites in a third, and so on.

One desirable aim is to achieve a reasonable cross section of the population in as many districts as possible. Another goal is to avoid diluting and perhaps nullifying the influence of racial, ethnic, or other minorities. Obviously these two ends may conflict. How can an appropriate balance be achieved? Clearly, decisions on electoral districts must consider more than just the "one man, one vote" principle, which, laudable as it is, can mask other inequities that may be equally disenfranchising.

Consequently, electoral districting should take into account the distribution of the population and its racial, ethnic, and socioeconomic makeup. That is, the influence of the size and shape of districts, and their geographic location, require superimposition -- actually or figuratively -- of any proposed system of electoral districts on a map showing the region's demographic patterns, if all the representational implications are to be brought out. To our knowledge no metropolitan representational system has openly and explicitly taken into account the complex effects of population composition and distribution. Because this is such a difficult and controversial task, it may be preferable to use districts already established for some other electoral purpose, if they meet the representational needs of an elected Bay Area regional government.

d. Closeness of Contest

As suggested above, several factors can influence the closeness of electoral contests. The importance of the post sought is a major determinant of the vigor with which seats are contested. So will be the "political visibility" of the agency concerned. Gerrymandering of districts to produce safe seats obviously minimizes contests. Plurality elections -- which allow many candidates to try for one seat, the person receiving the most votes winning without a runoff -- almost certainly reduce the effectiveness of contests by scattering the voters' attention and permitting candidates to win with less than a majority.

Close contests and well-fought campaigns can be encouraged by several devices. The post can be made significant by elevating the agency and its functions in the eyes of the voters. Electoral districts that create a minimum of "safe" seats encourage competition.

e. Partisanship

The delicate issue of political partisanship in local or regional elections must be raised. "Conventional wisdom," as well as what appears to be a majority view of California's leaders -- both nonpartisan and partisan -- holds that partisan elections at the local and regional levels are undesirable. The rationale for this position is based in part on the scandals afflicting machine-ridden local and state partisan politics in the late 19th and

early 20th centuries. In part, it is grounded in such reasoning as "there is no Republican or Democratic way to pave a street or clean a sewer." In part, it rests on a conviction that local nonpartisanship is so universally accepted in California as to be beyond change.

There is growing evidence, however, of attempts to rethink the fundamental assumptions of nonpartisanship, in California and elsewhere. Local and regional governments are concerned with a great deal more than routine matters like street maintenance. They are becoming deeply involved with some of the most fundamental issues confronting society. The new and expanded federal programs will increase this involvement.

Thus, the interests of all governmental levels -- federal, state, and local -- are converging, as they intensify their efforts to solve the physical, social, and economic problems of the metropolis. An emerging governmental region, such as the Bay Area, represents a new level. Should its system of governance continue to be developed according to the fifty-year-old nonpartisan formula? Or is it time to rethink the philosophy of nonpartisanship as it applies to metropolitan regions?

Furthermore, both political parties are recognizing that urban-metropolitan problems are increasingly central to their interests. Important sectors of both parties include urban problems among the crucial issues of American partisan politics. Also, partisanship appears to be entering many of California's local

elections more and more openly. The time may come when the best interests of all concerned will be forthright recognition of the trend by making the elections legally partisan.

Partisan elections tend to stimulate voter interest and awareness, increase the turn-out at the polls, and provide the citizens with basic reference points which help to identify major policy differences between candidates. The parties and partisan elections can also serve as recruiting mechanisms in bringing forth candidates representing a wide range of interests. Finally, the parties provide an organizational base for a continuing "opposition," facilitating the development and presentation of alternative policies to those followed by the groups currently in power. This function of constructive opposition is, of course, an important element in a healthy democratic process.

For the record, the authors express two opinions on partisanship at the regional level, when direct elections are employed to choose part or all of a regional legislative body. First, we believe a good case can be made -- theoretically at least -- for the formal introduction of partisanship. In a state like California, which is practically devoid of political "machines" -- in the turn-of-the-century sense -- at either the state or local levels, partisan elections could be an effective means of selecting a regional legislative body and holding it accountable to the electorate. Second, we are convinced that the need to create regional problem-solving machinery in the near future is

urgent, and that the chances of doing so within the next several years should not be jeopardized by attempting to introduce too many new ideas, such as partisan elections, all at once.^{7/}

4. Some Concrete Possibilities for Representation on a Regional Policy-Making Body

A few of the more likely concrete possibilities for organizing a regional policy-making body (single-purpose for the Bay, or multi-purpose) will be presented here for illustration purposes.

a. An Elected Governing Body

The entire policy body could be directly elected, from districts, by nonpartisan or partisan ballot. These might be the existing 18 Assembly districts or 9 Senate districts or a combination of both. Chapter VII discusses the slight modification necessary to make these districts adequate for election of Bay Area regional legislators. Districts could also be especially drawn for the regional agency,^{8/} or each county could be assigned a quota of representatives, based on its population, and the board of supervisors asked to apportion the quota among electoral districts within the county.

^{7/} Some aspects of the partisanship vs. nonpartisanship issue, as it relates to the regional governmental proposal of the Association of Bay Area Governments, are discussed in Chapter VI.

^{8/} If especially drawn districts are a real possibility, a study of the use of computer models in designing electoral districts should be commissioned by BCDC or, more appropriately, by the Joint Committee on Bay Area Regional Organization.

b. The ABAG Proposal and Variations

The ABAG proposal for a regional government is discussed in some detail later in the report. The reader is referred to Chapter VI.

c. A Continuation of BCDC

BCDC can be considered among the logical contenders to succeed itself, perhaps on a permanent basis, especially if it is decided that the successor should be concerned only with those matters now assigned the Commission, i.e., Bay and shoreline planning and policing. Or a temporary extension of BCDC might appear desirable if it proves impossible to create a more broadly based regional government in 1969.

d. Other Kinds of "Mixed" Bodies

There are, of course, many other possible mixtures in addition to that represented by BCDC. Three illustrative alternatives are presented here.

1. The legislature could be composed in equal parts of (1) members directly elected from districts, (2) members appointed by the Governor with legislative consent, and (3) members selected by counties and cities and/or by ABAG.

2. The legislature could comprise 18 members elected from the Assembly districts, plus nine chosen by ABAG.
3. A two-house legislature might be created. The lower house -- whatever its size -- could be directly elected. The ABAG Executive Committee -- as modified under the ABAG proposal -- could then be designated as the upper house. It could be a "House of Lords" of sorts, possessing the power to review and delay legislation, but subject to an override by the elected lower house.

The Regional Legislative Responsibility: Time, Effort, Tenure, Compensation, Size of Body

The demands of time and effort placed upon the regional legislators will depend on many factors. The number of functions assumed will be important, as will the size and effectiveness of the legislature's organization. The availability of high quality and dependable staff support will be important.^{9/} Another factor will be the legislators' other public responsibilities; if the constituent-unit principle is used, some individuals will be members of two, three, or even more public bodies and the consequent time demands could make it difficult to participate effectively in all.

Tenure relates to term of office, in the case of elected officials, and to either term or susceptibility of removal by the

^{9/} The possible influence of staff can hardly be overemphasized. Able staff support is extremely important, in order that an adequate and accurate flow of information and suggestions can be maintained to the legislative body and leadership. Also, it is essential that the legislators be able to devote sufficient time and effort to insure that staff do not "take over" key policy decisions. That is, the staff contribution should be influential and of high quality, but not dominant.

appointing agency, in the case of appointive or constituent-unit selections. The prevailing term of office for elected officials of most local governments in California is four years. There is no obvious reason to depart from four-year tenure in the case of an elected regional legislature.

In the case of appointive or constituent-unit representation, tenure would depend on the extent to which it was considered desirable to make the legislator immediately and directly responsive to influence by the appointing agency. Appointment and removal "at the pleasure" of the appointing agency would maximize dependence on the latter. Selection for a specified term with removal only "for cause" would maximize the legislator's independence, as would longer terms of office.

Directly elected legislators responsible for a multipurpose regional district should receive adequate salaries. Officeholding should not be "priced out of the market" for all but the affluent, or those who may be obligated to special interests. However it is possible that the payment of salaries to some members of a mixed legislative body could create problems. For example, if both local representatives and directly elected legislators were included, would it be reasonable and fair to pay one but not the other? Probably not. Are there persuasive reasons for differential treatment? We doubt it. If the salaries are substantial, but not

munificent, and if the responsibilities and demands on time are also substantial, it is unlikely (1) that people would seek the posts solely for money, or (2) that the indirectly elected positions would be given as sinecures to "deserving" persons in financial need, but with relatively few other qualifications.

In 1966 a constitutional amendment and legislation raised state legislator's salaries from \$6,000 to \$16,000. The latter figure would not appear excessive for members of a multipurpose regional legislative body with major powers. Of course, substantial salaries should be accompanied by parallel conditions such as the strong "conflict of interest" provisions embodied in the state legislative pay raise "package." ^{10/} Similarly, it might be appropriate to consider making salary payments dependent on the recipient's maintaining a good attendance record at meetings of the regional body and of its committees.

The size of the body will depend on many factors. The number of interests that have to be accommodated in achieving political acceptability is one consideration. But there is no "magic" formula for determining how large a legislature should be -- one of almost any size can be made to function. The U. S. House of

^{10/} A conflict of interest prohibition is the other half of the compensation-regulation equation embodied in the recently enacted Proposition 1A and collateral legislation: (Cal. Const., Art. IV. Sec. 4-5; Cal. Stats. First Ex. Sess., 1966, Ch. 163).

Representatives, for example, has 435 members, yet it works, however creakily on occasion, through an elaborate committee system. California's lower house has 80 members and its upper house 40. California counties other than San Francisco are served by five-member boards of supervisors, regardless of county size. Los Angeles County, for example, with 7 million people, is governed by a five-member legislative body.

Thus there is no theoretical standard as to size, and there is a tremendous range in actual practice. Local experience in the Bay Area, however, may suggest some useful guidelines. The six-county Bay Area Air Pollution Control District would be governed by an 18-member board if the district were expanded to nine-county scope, as envisioned in the law creating it. The three-county San Francisco Bay Area Rapid Transit District is governed by an 11-member board. The nine-county Bay Area Transportation Study Commission consists of 37 members. The nine-county San Francisco Bay Conservation and Development Commission consists of 27 voting members. Most of the policy work of the nine-county Association of Bay Area Governments is done by the 21-member Executive Committee, and ratified or rejected by the 94-member General Assembly, which normally meets only twice a year. This suggests that a legislative body of between 20 and 40 members should be both workable and sufficiently large to represent a wide spectrum of regional interests in the nine-county area.

Leadership: Selecting a Chief Executive

A crucial feature of an effective government is leadership -- the ability of individuals or groups within the agency to recognize present and foresee future needs, and to formulate the policies required to

meet them. One means of developing leadership is direct and at-large election of the chief executive -- equivalent to the governor at the state level or the mayor at the city level.^{11/} Candidates contending for the top office could go to the electorate with alternative programs. The campaigns could serve some of the purposes of the political parties at the state and national levels in offering voters reasonably clear policy choices. The victorious executive would have a popular mandate to work for adoption of his programs and to devise new policies as needs arise.

On the other hand, some observers question the wisdom of forcing candidates to wage at-large campaigns throughout the Bay Area. In large part, this is due to concern over the high cost of such campaigns. An alternative method -- selection of the chief executive by the regional legislature, from its own membership or outside -- would avoid these high costs. Under this method the executive would need to be appointed for a specified term and not be subject to replacement at the pleasure of the legislature, in order to give him sufficient tenure and independence to exercise effective leadership. This system has worked well in Toronto.

But the "musical chairs" method of choosing the presiding officer -- as practiced by the Bay Area Air Pollution Control District and the Association of Bay Area Governments -- should be avoided at all costs. Such a system, with its one-year tenure and alternation between city and county members,^{12/}

^{11/} Dade County (Miami) and Davidson County (Nashville) both employ this method of selecting the metropolitan mayor. The Dade County experience also suggests the importance of elected policy leadership to protect the appointed top administrative staff. Absence of such leadership in the early years of the reorganized Dade County government placed an intolerable burden on the county manager.

^{12/} Possibly the leadership problem in a constituent-unit system could be solved by a slight departure from current practice. ABAG has proposed election of the President and Vice President by secret ballot of all councilmen and supervisors of the area.

encourages discontinuity and restricts the choice of successors. Such a plan also makes it almost inevitable that members with limited leadership ability will eventually act as presiding officers, if they only retain their seats long enough. Finally, not only is tenure short, but also the formal powers of the presiding officer are few. Primarily they comprise his presumed greater knowledge and involvement in agency activities during his year in office, the parliamentary powers of chairman, appointment of committees, and the opportunity to take the initiative in encouraging or discouraging the presentation of new programs.

Agency Functions and Powers: A Minimum

A minimum allocation of power would be continuation of the existing functions of BCDC, enabling it or the successor agency to conduct continuing studies and maintain a permanent planning process, thus keeping the Bay and shoreline plan up-to-date. It would also include the power to grant or withhold permits for Bay fill. This assumes, of course, that there will be no recommendation for a return to the pre-existing situation, i.e., every local government for itself, which seems a most unlikely prospect at this writing.

But a long-term continuance of these minimum powers will result in strong pressures for adverse development which BCDC or its successor may be hard put to withstand. Thus a strong grant of power to control land use along the shoreline will be an essential tool in the program to implement a plan for the Bay and shoreline. It will also have to be accompanied by strong financial resources and the power of eminent domain. A combination of land use control, condemnation, and purchase will be

necessary to control -- where control is sufficient -- and to acquire and develop, or lease or resell under conditions, where those are appropriate means of plan implementation.

Finally, if it is decided that Bay and shoreline control should be combined with -- or closely related to -- other regional functions, now or later, the powers necessary to sustain a multipurpose regional government would be required.

Agency Functions and Powers: A Multipurpose Body?

The possibility of establishing a multipurpose agency introduces a number of new considerations. These include the rationale for a multipurpose body, the major choices available and the allocation of functions among levels of government.

1. The Rationale

One of the crucial reasons for urging a multipurpose agency is to insure recognition by the system of governmental decision-making of the interdependence of the physical, economic and social systems within a region. A multipurpose agency can bring the interdependent systems under one policy-making roof and help achieve a rough compatibility between the scope of policy decision-making and the regional needs these policies attempt to meet.

In addition, a multipurpose agency should possess enhanced political visibility, thus helping insure accountability as well as public awareness of regional problems and needs. Grouping regional functions requiring public support is probably the best way to encourage reasonably rational allocation of scarce resources in a democratic system.

The Federal Government is increasingly recognizing the interdependence of all its programs at the regional level, and is requiring a multifunctional review by a single regional agency of a wide range of projects receiving federal aid. This review process will increasingly be of enormous importance in determining the way in which the region lives and grows. It would benefit the Bay Area to take steps insuring that, ultimately, the agency conducting the review meets the criteria outlined above for the decision process and for a regional policy-making body. A well-designed multipurpose regional government would do this; anything less would not.

2. The Choices

If the arguments for a multifunctional structure are found persuasive, several possible choices are available. These choices involve (1) the degree of integration sought for the several functions, and (2) the number of functions to be included.

a. An Operating Agency: Consolidation

Full-scale integration or consolidation would combine several regional functions, setting them up as subsidiaries or departments within the regional government. If the new government absorbed existing regional agencies, such an effort would probably need to be phased over a transitional period, perhaps of several years, in order to insure an orderly transfer.

b. A Coordinating (or "Umbrella") Agency: Integration Without Consolidation

On the other hand, it may be possible to achieve a good deal of integration short of actual consolidation, particularly when existing regional agencies are concerned, and institutional resistance to

dissolution is high. The concept of an "umbrella" agency with a general overview function holds sufficient appeal to warrant further exploration. The umbrella agency could be designed to keep a watchful eye on selected major regional programs, and especially on their mutual interrelationships. Employment of an umbrella government could prove to be the only practical means of accomplishing regional objectives without major surgery on existing agencies -- either regional or local.

But to be effective the umbrella government would need significant powers. It could, for example, be authorized to appoint part or all of the boards of directors of the other agencies. Another important sanction would be the power to review and say "yes" or "no" to proposals of whatever scale embodying potential conflicts with stated regional goals. The umbrella government could also be given major financial resources. Perhaps it could serve as the distributor for state and federal money paid into the region, in addition to dispensing funds from independent revenue sources of its own. Through the distribution and redistribution of resources, the umbrella government could encourage interagency coordination and facilitate the difficult decisions that should be made when, in the best interest of the region, one agency ought to defer to another.

Interagency transfer payments could help ease the difficulties caused by continuation of agencies which are limited either functionally or geographically. For example, an agency capable of making transfer payments could assist the Alameda-Contra Costa Transit District by absorbing the losses the latter may sustain if it adjusts its routes, rates, and schedules to maximize the effectiveness of the service

provided by its "competitor," the San Francisco Bay Area Rapid Transit District. Without a higher-level government able to cushion and absorb such adverse effects, intraregional competition of many other kinds, analogous to the potential conflict between A/C Transit and BARTD, could harm the region's overriding public interest.

Finally, if all else failed, and deleterious conflicts or inabilities to act appeared likely to jeopardize the well-being of the region, still stronger powers to order necessary consolidation or other governmental reorganization could be held in reserve. These powers could be placed directly in the hands of the umbrella government, or could be exercised by the State Legislature, acting on recommendations by the former.

c. Which Regional Functions?

As noted above, the functions most frequently mentioned in the Bay Area for possible assumption by a regional government include one or more of the following: regional planning, regional refuse collection and disposal, regional parks and recreation, open space programs, air pollution control, water pollution control, and transportation. ^{13/} In addition to these, the Governor's Commission on Metropolitan Area Problems mentioned water supply, regional sewage disposal and drainage, regional aspects of law enforcement and fire protection, regional aspects of urban renewal, civil defense, and any other areawide function which

^{13/} The study on Bay Area regional organization under Senate Concurrent Resolution No. 41 is specifically asked to determine which of the following functions, among others, should be handled wholly or partially on a regional basis: (1) regional planning, (2) air and water pollution, (3) solid waste disposal, (4) regional parks and open space, and (5) transportation (including rapid transit, ports, airports, and bridges).

might be requested by the residents and leadership of the individual metropolitan area concerned.

Many considerations must enter into the selection of regional functions to be brought under either a consolidated or umbrella agency. First, is the function being dealt with at all on a regional basis under existing arrangements? (If not, it may be a prime candidate for a regional agency's list of functions.) Second, how adequate is the treatment of each function now receiving regional attention? (This inevitably leads to the next question.) Third, how closely inter-related is the function with other functions being considered for linking? Fourth, how entrenched and politically powerful are the existing agencies possessing a vested interest in the present arrangement?

The emphasis on regional functions may suggest an oversimplification that should be clarified. Actually, few public functions are exclusively regional or exclusively local. Most can be separated into local and regional components. This leads to another important set of choices determining which components of certain functions must be treated regionally for effective action, and which components can appropriately be left in the hands of local government without endangering regional interests.

There are several reasons to regionalize only those functional components that cannot otherwise be dealt with satisfactorily. First, retention of significant local powers will help strengthen local government. Second, removal from local units of responsibility for components of functions with which they cannot cope

effectively will strengthen local government as well as further regional programs. Third, sorting functions into their regional and local components should help minimize the reluctance of local governments and other interests to accept essential changes.

Financing Regional Programs

The agency's need for fiscal powers would obviously depend on the substantive responsibilities assigned to it. If it is only to conduct continuing studies and keep the Bay plan up-to-date, an annual budget of a few hundred thousand dollars would probably suffice. If implementation is to be through the police power only, fiscal requirements would remain limited. But if implementation is to be effected in whole or in part by negotiated purchase or condemnation of properties, or through physical development of the shoreline by the agency -- and this is undoubtedly the case -- then financial resources of major magnitude will be essential.

Property tax inadequacies, both real and alleged, do not make this long-established source of public revenues a likely candidate for raising large sums of money, over and above the heavy support it already provides for school districts (the major user), counties, cities, and other special districts. In most California urban areas the property tax rate runs to \$10 per \$100 of assessed valuation or even higher. Further, the property tax is difficult to administer, is often erratic as well as regressive in its incidence, and is subject to abuses, some of which were highlighted by California's recent county assessor scandals. The main virtue of the property tax is that "it is there." A new district or agency can easily be authorized to add a few more

cents per \$100 assessed valuation. But if large monetary outlays are anticipated, other sources should be utilized.

There are many possibilities:

1. A regional addition to the income tax, perhaps computed as a flat percentage of the State or Federal income tax to simplify paperwork.
2. Taxes or charges specifically upon benefits derived from the Bay.
3. A long-term commitment of a portion of tolls from bridges across the Bay.

4. A "property appreciation" tax (similar to the new British "betterment" charge by which a property owner pays a percentage -- in the British case, nearly 50 per cent -- of the increase in the value of his property that has resulted over a period of time from public improvements or planning decisions, as opposed to increased value resulting only from the owner's own efforts).

5. A property transfer tax (levied on property when it changes hands, the amount of the tax being based on the sale price).

6. A regional addition to one or more state taxes, such as the gasoline tax, cigarette tax, alcoholic beverage tax, general sales tax or other state levys.

A regional addition to the income tax appears to be one of the most equitable and attractive possibilities. If a multipurpose agency is to be established, however, a whole "family" of taxes should be considered, perhaps with the income tax as the most important single source.

Taxes related to property value appreciation should not be viewed only as likely sources of revenue. They can also have a very significant impact on the land market, and on the rate and location of value appreciation. If properly utilized, tax policies can curb land

speculation and land value inflation. These taxes are two-edged swords. They provide public funds with which to acquire land. And they can reduce materially the costs of land acquisition. Further, they can help influence the course of future urban development, short of actual public acquisition of property. Thus land value taxes are both a source of funds and a means to the implementation of regional plans. The impact of property tax policies on urban land is indicated by the following comment:

[The planners] . . . should know that the assessor is de facto using and misusing the property taxation tool and that this is part of the reason why the other planning tools are not working as well as they should. They should make the practice of using property taxation for land-use planning purposes a tool of their own. In this respect, the Hawaii experiment [with a combination of zoning and graded taxation] is well worth noting and following.^{14/}

The implications for the Bay Area of these intricate but very real and potentially powerful interrelationships between taxation and land use deserve careful exploration. Perhaps BCDC could commission the necessary research, or it could be done under the auspices of the Joint Committee on Bay Area Regional Organization.

If BCDC or its successor is to undertake long-term plans requiring major capital outlays, two other matters should be considered. First, the agency will need to break loose from the annual budgetary cycle. A five- to ten-year plan, or an even longer-term plan for capital finance, will be required for an effective property acquisition program. Second, a means of capital finance through a simple majority referendum, as is the case with state bond issues, must be found to replace the archaic 80-year old constitutional two-thirds vote requirement

^{14/} Donald G. Hagman, "The Single Tax and Land-Use Planning: Henry George Updated," UCLA Law Review, 12: 762-788, March 1965.

now handicapping California's cities, counties and school districts. ^{15/}

It should be pointed out that an agency empowered to acquire land for preservation, development, leasing, or resale could become at least partially self-supporting, once it has become operative. Nevertheless, the agency should not be made heavily dependent on dealings in land for its financial resources. Otherwise there would be the risk of encouraging it to adopt policies tending to fill its coffers, rather than policies adjudged best for the region.

Finally, Federal and State financing should not be overlooked. The State might see fit to establish a special program for the Bay Area, provided some counterbalancing benefits were conferred on other California regions. And a channelling of some of the Federal and State funds available for land acquisition, renewal, and urban improvement to or through the agency could provide it with a good deal of leverage. All the State and Federal funds now spent in the Bay Area that have a regional

^{15/} The Federal interstate highway program, California's own State freeway program, and the Feather River Project provide illustrative cases in point. The three represent some of the most massive public works programs undertaken in the history of mankind. All involve major capital outlays, and are financed on a long-term basis. In each case, once the initial decision was made, there were no further budgetary reviews, thus permitting long-term planning of the programs. Did any of them have to pass a two-thirds referendum requirement? No. The Federal and State highway programs were undertaken with no referendum vote at all -- Federal and State legislation, respectively, authorized the two long-range programs. The Feather River Project had only to get a simple statewide majority vote, as State general obligation bonds require only a simple majority. New forms of financing bearing some of the characteristics of these highly effective programs will need to be devised if the Bay Area is to accomplish the massive land acquisitions that may be required under the BCDC plan, and that are proposed by ABAG's preliminary regional plan.

impact could be required to be expended in accordance with the regional plan. This policy alone would represent a significant step toward effective plan implementation, even without additional appropriations or other powers.

Relations With Other Governments

Functional and governmental interrelationships has been a recurring theme in this chapter. It appeared in the discussion of the decision process. Also, the need for effective interrelationships is one of the stated rationales behind the constituent-unit principle of representation. The umbrella agency concept, and the division of functions into local and regional components, are both predicated on the primary importance of intergovernmental relationships.

Many agencies are involved in policies and programs that affect the Bay and shoreline, either directly or indirectly. The State Division of Highways builds freeways along the shoreline; the Division of Bay Toll Crossings constructs bridges across the Bay; BARTD is building a tube under it. The air pollution control district regulates the quality of air over the Bay; the regional water quality control board determines the purity of water in it. The Federal Government owns a small portion of the Bay, as well as some critical shoreline areas. Also the Federal Government has an ultimate regulatory authority over navigable waters, such as the Bay and its tributaries. The State government is a major owner. BARTD and its three-county transit system, BATS and its nine-county transportation plan, and individual cities' and counties' zoning and developmental planning all involve significant impacts on future uses of the Bay and shoreline.

The successor agency recommended by BCDC should be designed to take these many impacts and interrelationships into account. If a regional government is created, it would be designed specifically to undertake the task. If a more limited agency must be established, however, the need to consider relationships with other governments would be all the more critical.

Several kinds of Federal and State interests must be considered, regardless of whether one is discussing (1) only the implementation of a plan for the Bay and shoreline, or (2) a broad-gauge multipurpose regional government for the Bay Area. Not only do the Federal and State governments own portions of the Bay and shoreline, and have important police and regulatory responsibilities over it, but also what happens in an area as large and richly endowed as this region is of both State and national import. Degradation of the Bay, or of the Bay Area, would represent a major loss to both the State and nation. Furthermore, the Federal and State governments invest large sums of money in the Bay Area every year. They have a legitimate interest in seeing the money well spent, and in guarding against locally or regionally initiated programs conflicting with those intended to be furthered by the Federal and State investment.

Any regional agency capable of implementing a plan for the Bay and shoreline, or of handling a number of other regional problems, will need major financial resources in addition to the State and Federal moneys mentioned above. This will require State legislative authorization for regional taxes, and perhaps additional State and Federal subsidies. The State will need to retain general legislative jurisdiction over

any agency that may be created, in order to facilitate modification later if experience or changed circumstances so require.

Finally, and above all, there must be a mutual exchange of information and ideas, and cooperation in programs, between State and Federal agencies and the regional agency.

How can the variety of State and Federal interests in the Bay region be accommodated and protected? In part, certain existing regulatory functions, if continued, would help do this. Also, strings attached to State and Federal moneys going into the region can accomplish the same end. To the extent that federally owned lands or federally controlled waterways are involved, obviously the national government would have an ultimate and overriding authority. But arrangements should also be made to insure maximum Federal consideration of local and regional interests.

Should State and Federal representatives sit on the regional policy body? We think not. There is something a bit awkward or anomalous about State or Federal civil servants sitting on a regional legislature. And it would be completely infeasible to have top-level political appointees such as the State Director of Finance or the Secretary of the Interior designated as members.

The State's interest is perhaps best protected by its ultimate retention of full legislative authority to restructure the regional agency, should that prove desirable. Similarly, the Federal interest may best be protected not only by its ultimate authority over the areas under Federal jurisdiction, but also by national encouragement of the development of strong regional planning processes. And the vital

processes of liaison and cooperative program development can be encouraged without representation of the State or Federal governments on the regional policy-making body.

It is now appropriate to examine other thought and experience on the North American continent directed toward devising governmental solutions for regional problems. Although the variations in detail can be almost endless, only a few basic responses to regional problems have been tried and/or suggested in the Anglo-American world. For discussion, these are grouped as one- and two-tier approaches. The term "one-tier approach" designates organizational arrangements involving only one level of general-purpose local government. The two-tier approaches employ an upper-level government, which is assigned certain functions, usually regional in nature, as well as lower-tier governmental units, which are responsible for designated local functions.

Among the one-tier approaches are city-county consolidation (discussed in Chapter IV) and municipal annexation. Two-tier approaches reviewed in Chapter V include federation, the comprehensive urban county, metropolitan-scale special districts, and councils of governments.

Governmental proposals for the San Francisco Bay region emanating from the Association of Bay Area Governments are considered in some detail in Chapter VI. Two possibilities for direct election, using slightly modified Assembly and Senate districts, are examined in Chapter VII.

PART TWO

ALTERNATIVE APPROACHES TO METROPOLITAN

GOVERNMENTAL ORGANIZATION: A SURVEY

CHAPTER IV. A ONE-TIER APPROACH: CITY-COUNTY CONSOLIDATION

While city-county consolidation as such does not offer a solution to regional problems of the Bay Area, the experience with consolidations and consolidation efforts can provide valuable procedural and substantive guidance. Properly adapted to the Bay Area's governmental situation, these clues can be most instructive in suggesting both ways of proceeding and things to be avoided in the Bay Area's search for a better way of handling regional problems.

Typically, city-county consolidation proposals feature the merger of the major city -- or of all cities in a metropolis -- with the county government.^{1/} Less often, consolidation proposals also provide for the absorption of additional local governments, including school districts and other special districts.

^{1/} City-county separation, such as that which created the city and county of San Francisco in 1856, should not be confused with city-county consolidation. Separation involves the detachment of a city, sometimes after enlargement of its area, from the remainder of a county. The separated city government subsequently carries out both municipal and county functions and is often legally regarded as a city-county. Except in Virginia, where separation takes place automatically in every city when it reaches a population of 5,000, all U.S. city-county separations occurred many years ago. In addition to San Francisco, they include Baltimore (1851), St. Louis (1876), and Denver (1902).

San Francisco's separation was accomplished by state legislative act. The city was approximately quadrupled in area and separated from San Francisco County. Through another legislative act, the remaining county area with about ten times the territory of newly enlarged San Francisco, was established as a new county, San Mateo. In this case, separation created the unified City and County of San Francisco. As employed here and in the other cited examples, however, separation is a separatist or non-regional measure, opposite in intent to the regional devices we are examining.

The idea of consolidation has considerable appeal. A single government, it is reasoned, possesses both authority and territorial size necessary to deal with areawide problems in a unified fashion. It is also contended that a consolidated government, endowed with both metropolitan and local functions, can effect greater economies and efficiency. The economies would result from the large size of the government, making possible lower unit costs. Efficiency would be improved because the single government would eliminate duplication of services or poor coordination -- conditions often prevailing when many local governments are involved. Proponents of consolidation further point to the ability of a consolidated government to allocate financial resources on the basis of need, thereby doing away with the discrepancies between resources and requirements that characterize the fragmented governmental systems of most metropolitan areas.

Despite considerable advocacy and attention, city-county consolidation has only rarely been employed. In fact, only seven metropolitan areas have chosen this route to governmental reform.^{2/} Four of the consolidations were accomplished in the nineteenth century -- New Orleans (1813), Boston (1821), Philadelphia (1854), and New York (1898) -- and a fifth, Honolulu (1907), resulted from

^{2/} We exclude a few city-county consolidations in Virginia, which were resorted to as a defensive measure against that state's unique practice of removing from county jurisdiction all land annexed by a city.

action of the territorial legislature and was retained when Hawaii became a state. Only two such consolidations have taken place in any state in this century -- Baton Rouge (1947) and Nashville (1962).

The Early Consolidation

The five city-county consolidations that became operative between 1813 and 1907 were all accomplished by state legislative action ^{3/} and did not require local voter approval. ^{4/} The number of existing local governments involved in these consolidations varied. In the case of Honolulu the territorial legislature created a local unit to perform both city and county functions where there had been neither a city nor a county before. The Boston and New Orleans consolidations each involved only one county (termed parish in Louisiana) and one city.

The New York and Philadelphia consolidations were quite different, bringing many local governments together, and, in addition, making public education part of the system. Moreover, the New York consolidation encompassed four preexisting counties. Another unique feature of the New York consolidation was the establishment of local entities, called boroughs. The boroughs were made territorially coterminous with county boundaries and given limited

^{3/} It was an act of the territorial legislature in the case of Honolulu.

^{4/} A comprehensive historical treatment of consolidation is found in John A. Rush, The City-County Consolidated (Los Angeles: privately printed, 1941).

administrative functions, but no legislative powers.^{5/} All these consolidated governments still exist. The original boundaries have been changed little, if at all, and in most instances they now include only a small portion of the territory of the metropolitan area in which each is situated.

Opposition and Defeats

As metropolitan areas and their governments grew in the early decades of the present century, the continued high interest in city-county consolidation failed to pay off anywhere. Many new suburban communities sprang up in this period, forming powerful blocs of opposition to consolidation because of their desire to control local finances and land development, and because of real or fancied fears of the unresponsiveness of a single big government for the metropolis. Stiff legal obstacles to city-county consolidation were enacted, and advocates of this approach subsequently have confronted two kinds of hurdles. First, they have had to obtain passage of a constitutional amendment or a state enabling law permitting metropolitan areas to adopt city-county consolidation. Second, it has been necessary to obtain approval of the consolidation plan by the local voters, usually involving at least two separate majority votes -- in the central city and in the remainder

^{5/} The most up-to-date analysis of the New York City government is Wallace S. Sayre and Herbert Kaufman, Governing New York City: Politics in the Metropolis (New York: W. W. Norton, 1960).

of the area -- and sometimes more than two. From 1900 to 1945, most consolidation attempts failed even to clear the first hurdle, and only three proposals got to the voters. All were defeated.

Adoption in Baton Rouge

The Baton Rouge-East Baton Rouge Parish consolidation, approved by a slim areawide majority in 1947, is actually only a partial merger. The legal existence of the two governments was continued, but they were interlocked. The seven city councilmen of Baton Rouge, plus the parish mayor-president, govern the city area. These eight, sitting with two other members elected from the rural section of the parish, make up the consolidated city-parish governing body.

The mayor-president, elected on a parishwide basis, is the chief administrator of both governments and presides over both councils. He appoints the public works director, personnel administrator, finance director, and purchasing agent, who serve both the city and parish. He also appoints the police and fire chiefs, who operate only in the city. Thus, the two governments are interlocked in important ways, although they still have separate governing boards, separate budgets, and separate accounting for city and parish funds.

1. Differential Zones

The Baton Rouge consolidation was innovative in another respect, one subsequently copied in many other consolidation proposals, including the one adopted in Nashville more than a decade later.

This is the provision for differential taxing and service zones throughout the consolidated area on the basis of differing needs and land use. The City of Baton Rouge was extended to the limits of major urban development and designated as the urban zone. A rural zone and two industrial zones were also established.

The city government furnishes fire and police protection, traffic regulation, street lighting, sewerage, garbage and refuse disposal, and inspectional services in the urban zone, which is subject to both city and parish taxes. Parish taxes are also levied in the rural zone and the two industrial zones. Bridges, highways, streets, and airports are provided throughout the parish by the consolidated public works department and financed by parish taxes.

In the industrial zones the industries supply the needed city-type services at their own expense. No municipal-type services, except those from the sheriff, are available in the rural zone unless the parish council sets up special taxing districts in areas desiring added services, which are thus locally financed. Portions of the rural zone adjacent to the city may be annexed into the urban zone, as they become urbanized, by majority consent of the owners of property in the affected area, and after approval of the city council. No further incorporations are permitted. (Two small preexisting municipalities were not made part of the consolidation, but they are prohibited from enlarging their areas.)

2. Periodic Review

The Baton Rouge-East Baton Rouge Parish consolidation has been reviewed periodically by official study committees. In each instance changes, mostly minor, have been suggested and usually implemented by voter approval of charter amendments, or through council or administrative action. The first study group helped substantially to increase public confidence in the new governmental system. It was a prestigious body and permitted all parties to air their views at open hearings. The extensiveness of its discussions produced greater citizen understanding of the rather complex reform that had been instituted.^{6/}

The second review committee, which reported in 1956, and the third, active mainly in 1959-60, expressed the increasing general confidence in the consolidation growing out of its successful experience. The third group gave this well-tempered evaluation:

. . . this plan appears to be eminently well suited to the efficient and responsible conduct of local government in the area. The Committee is well aware that the future growth and development of this Parish will necessitate adjustments and we believe that the Charter provides an excellent framework within which this development can take place.^{7/}

Revived Interest

Activity in support of city-county consolidation picked up again in the 1950's and early 1960's, but no further adoption was accomplished until 1962. During that period, proposals were turned down

^{6/} William C. Havard, Jr. and Floyd L. Corty, Rural-Urban Consolidation: The Merger of Governments in the Baton Rouge Area (Baton Rouge: Louisiana State University Press, 1964), p. 42.

^{7/} Report of the Plan of Government Study Committee to the City-Parish Councils (June, 1960), p. 10.

by the voters of many metropolitan complexes, generally in medium- and small-sized metropolises and chiefly in the South. Almost without exception, the proposals were required to obtain separate voter majorities in both the central city and the remainder of the county. In most instances the central city voters approved, but the other majority was not forthcoming. In several instances neither majority was obtained.

The Nashville Consolidation

The fifteen-year interlude in adoptions ended in 1962 when the voters of Nashville and the remainder of Davidson County, Tennessee, approved a city-county consolidation. The two required approvals were given by almost identical voter majorities -- approximately 57 per cent in each case. Four years previously, the electorate outside Nashville had rejected a comparable consolidation proposal, only 42 per cent casting affirmative ballots. In the interim between the two elections, however, the City of Nashville had annexed about 50 square miles of county territory. This large-scale annexation activity, accomplished by unilateral action on the part of Nashville, converted many anti-consolidationists of the first election into pro-consolidationists in the second contest. Some changed because they felt they would have better representation in a consolidated government than in the Nashville city government, which might subsequently annex them. Others, who lived in the new sections of Nashville that had been annexed involuntarily, chose consolidation as a revenge

against Nashville's incumbent mayor, who led the city annexation movement and by 1962 was the major opponent of countywide consolidation.

1. General and Urban Service Areas

A major feature of Nashville's consolidation is the creation of two districts or zones. One is the urban services district, composed at the outset only of the former City of Nashville -- about 75 square miles. The other zone, a general services district, consists of the entire county, including Nashville, with an area of 533 square miles and a population of about 415,000. Six small suburban municipalities were initially left outside the urban services district, which may be enlarged by the metropolitan government whenever areas require urban services. These municipalities, however, are in the general services district and therefore subject to the metropolitan government's jurisdiction for areawide services and control.

Functions performed by the metropolitan government and financed on an areawide basis, that is, through the general services district, include schools, police, courts, public welfare, streets and roads, traffic, transit, library, public housing, urban renewal, public health, refuse disposal, and enforcing building, electrical, housing and plumbing codes. Functions performed only in the urban services district, and financed by it, include water supply, sewage disposal, fire protection, intensified police protection, and street lighting and street cleaning. The metropolitan government possesses both city and county taxing powers.

2. Mayor, Council, and Redistricting

A metropolitan county mayor is elected at large for a four-year term, and may not serve more than three consecutive terms. He is the chief administrative officer and also has a veto power over legislative actions. The metropolitan council -- the legislative body -- is made up of 40 members, who similarly are elected for four years, five at large and 35 from single-member districts. Redistricting of the council must take place every 10 years, beginning with the 1970 decennial census.

3. A Favorable Evaluation

Daniel R. Grant, a veteran analyst of Nashville metropolitan developments and a professor of political science at Vanderbilt University, has made a highly favorable appraisal of the early years of the consolidated governmental operations.^{8/} The community decision-making process has been considerably simplified, and it is now easier to focus public attention on officials and their decisions. Many duplications have been eliminated and some economies have been achieved -- although the consolidation has stimulated rising public expectations that will probably bring increased expenditures and taxes. Specialization and professionalization of public personnel, and equalization of certain services on a countywide basis (most notably schools and parks) have taken place. A number of city-county financial inequities have been eliminated by shifting various services

^{8/} Daniel R. Grant, "A Comparison of Predictions and Experience With Nashville 'Metro'," Urban Affairs Quarterly, 1: 34-54, September, 1965.

formerly financed solely or largely by city taxpayers to a countywide tax base. In all these instances, the predictions of consolidation supporters have come true. On the other hand, only one major substantive claim of the opponents has been borne out: rural residents have had to pay higher taxes without gaining major benefits.

Possible Relevance of City-County Consolidation to the Bay Area

1. The complete consolidation of all 91 city and 9 county governments of the Bay Area into a single entity is exceedingly unlikely. Such an approach is completely impractical politically. Even if it could be accomplished, it would probably be highly inadvisable. A single government encompassing 7,000 square miles and a current population of 4.5 million would actually be the "supergovernment" that is raised as a specter in some sectors of the area as a means of preventing more realistic and workable governmental reorganization plans from being established.

2. City-county consolidation within various individual counties of the Bay Area, however, conceivably could produce a stronger local level of government.

3. The concept of tax and service zones employed in the Baton Rouge and Nashville consolidations may be of value whenever the area of need within a region varies among services.

4. Periodic review of the results of metropolitan reorganization, as practiced in Baton Rouge, is a logical procedure that could well be emulated here.

5. Baton Rouge and Nashville, the two city-county consolidations effected in the present century by voter approval, both have elected chief executives. These offices were created expressly to provide leadership.

6. Mandatory redistricting of metropolitan legislative seats may be necessary to avoid the development of inequitable representation as the population distribution changes.

CHAPTER V. TWO-TIER APPROACHES

Introduction

In a multi-county situation such as the Bay Area's, two-tier approaches are clearly more acceptable and have more to offer than one-tier arrangements. As has been noted, complete consolidation of local governments in the nine counties not only is politically infeasible, but also would be highly questionable on practical grounds. Two-tier approaches make it possible to build upon or to leave relatively undisturbed the existing structure of local government. Thus experience with the two-tier variants, whose basic similarities are far more important than their differences in form, should prove most instructive for the Bay Area.

What can we expect to learn from the discussion of two-tier approaches? First, the division of functions and powers between the two levels will indicate which activities have been treated elsewhere as "regional" and which as "local." Second, the process by which two-tier government was established will be of great interest. Third, the actual workings of two-tier governments, including their successes and difficulties, as evaluated by informed observers, will give essential guidance on goals to be sought and pitfalls to be avoided.

Two of the most important working examples of comprehensive two-tier governments -- Toronto and Dade County (Miami) -- are examined here. In addition other less comprehensive examples -- multi-county special districts and related agencies -- are discussed in some detail.

Federation

Governmental federation differs significantly from city-county consolidation. As we have seen, the latter produces a one-level system wherein a single areawide government carries out both metropolitan and local public operations. Federation, in contrast, is a two-level approach, the first of three to be discussed in successive sections of this chapter. A federation establishes a new general or multiple-purpose metropolitan government to handle areawide functions, while local units continue to perform local activities. The two levels are federated or interlocked in two respects, as is our national federal system. First, powers are allocated between the metropolitan and local governments. Second, local areas -- but not necessarily local governments -- are used as the representational base for choosing members of the metropolitan legislature.

1. The Movement

The idea of metropolitan federation received its greatest attention in the United States in the closing years of the nineteenth century and the first three decades of the present century. Thus, although the initial efforts on behalf of city-county consolidation preceded those for federation, strong interest in both was evident in many of the same years.

Most proponents of federation considered this approach to be intrinsically superior to consolidation and not a stepping stone to it. They judged the complete merger of a number of governments to be unnecessary and inappropriate. Not all needs in a metropolis, they reasoned, were areawide in scope, and consequently the assignment

of both metropolitan and local functions to a single areawide government was irrational. In their view, the logical arrangement was to allot metropolitan responsibilities to a new general metropolitan government and to continue the existence of local governments for local purposes.

a. Serious Efforts

Although much discussed, the idea of federation was seldom shaped into a concrete proposal and even less often voted upon. It first received serious attention in 1896, when a three-member commission appointed by the governor of Massachusetts to analyze types of metropolitan organization recommended the passage of a legislative bill calling for a referendum on the question of federation in the Boston area. The bill failed to pass, and federation received almost no consideration anywhere in the country for the next two decades. In 1916 a significant effort began in Alameda County, California, which produced the first federation charter ever presented to the voters anywhere in the nation. The electorate rejected the proposal.

The second and final federation plan to be submitted for popular approval by a metropolis was defeated by Allegheny County (Pittsburgh) voters in 1929. In the next year the Missouri voters killed a proposed constitutional amendment that would have authorized St. Louis and St. Louis County to draft a federation charter for presentation to the electorate. In the late 1920's, a private organization prepared a detailed federation plan to link San Francisco and San Mateo County; the plan was partially incorporated in the new San Francisco charter of 1931, but the movement to get the federation proposal

implemented by voter approval sputtered and died the following year.^{1/} Attempts to revive the idea in San Francisco-San Mateo County, Alameda County, and Allegheny County later in the 1930's and to install the approach in Dade County (Miami) in the 1950's proved shortlived.

A concrete plan of federation has not subsequently been formulated in any metropolitan area in the United States. The inability to get federation adopted anywhere in our nation and the transfer of such effort to other forms of the two-level approach punctured the federation movement. Interestingly enough, the decline of federation in this country coincided with its rise in Canada. Metropolitan federation went into operation in the Toronto area in 1953 and has been in effect there ever since.^{2/}

2. The Obstacles to Adoption

a. Legal Impediments

Federation attempts in the United States have generally been hampered by two legal obstacles. First, because formal means of activating such plans did not exist, the proponents had to seek authorization through constitutional amendment or state statute. Second,

^{1/} The federation efforts in Alameda and San Francisco-San Mateo County are considered in detail in John C. Bollens, The Problem of Government in the San Francisco Bay Region (Berkeley: Bureau of Public Administration, University of California, 1948), pp. 65-94.

^{2/} The Quebec and Manitoba provincial Legislatures passed federation acts pertaining to the Montreal and Winnipeg areas in 1959 and 1960, respectively. The metropolitan governments established by these laws, however, have far fewer powers than their Toronto counterpart.

the legal authorizations obtained usually embodied difficult hurdles in their requirements for local adoption. A number of them required approval by referendum and stipulated multiple majorities, sometimes a majority in each city (in some instances coupled with countywide majorities) or an extraordinary majority in more than half of the municipalities, plus a countywide majority. In contrast, it should be noted, many metropolitan special districts, which are examples of another form of the two-level approach, needed only a single areawide popular majority. Moreover, some metropolitan districts have been established simply by action of the state legislature without referendum, the procedure also followed in creating the federation system in the Toronto area.^{3/}

b. Internal Problems

Federation efforts also have been impeded by other obstacles. One difficulty -- an appropriate and acceptable distribution of powers between the metropolitan and local units -- is inherent in all multi-purpose two-level systems. Determining which level should have what responsibilities is often a troublesome and perplexing issue -- a dilemma not posed by city-county consolidation proposals. Should the powers of both governmental levels be specified or should the functions of only one or the other be enumerated explicitly? (Actually, all three possibilities have been incorporated in different federation plans.) Also, should all aspects of a function be assigned

^{3/} Most regional and subregional districts established in the Bay Area during the post-World War II years were created by legislative acts without referenda.

to one level, or is it more logical in certain functional fields to allot some components to one level and the remainder to the other? For example, refuse collection might continue to be handled by the local governments, while regional refuse disposal might be made the responsibility of the metropolitan government. Again, the allocation of entire functions to one level and the division of other functions between the two have been laid out in various federation plans. Obviously, a great many combinations are possible.

The other difficulty has related to the composition of the governing body of the upper level. All federation proposals, except some prepared for the Boston area, provided for direct election of all governing board members, and for either the nomination or election (and in some instances both) of some or all members from sub-districts within the metropolitan boundaries. Constructing the metropolitan governing body has therefore involved decisions about whether representation should be based solely on population, or whether other factors, such as existing local units, should be considered. It has similarly involved judgments on ways to insure adequate representation without swelling the metropolitan board to an unwieldy size. These have frequently proved to be very delicate questions.

3. Area and the Borough Concept

Some proposed federations have concerned only a single county. This was true of the proposals for Alameda, Allegheny, and Dade counties, where a new metropolitan government would have replaced the existing county. Other proposals have encompassed more than one county. The Boston area proposals pertained to a whole county and

portions of three others. The San Francisco and St. Louis arrangements related, in effect, to a consolidated city-county on the one hand and a county government on the other.

A number of the federation plans would have renamed the local governments "boroughs," frequently after territorially enlarging them so that, altogether, they would encompass all the land within the boundaries of the metropolitan government. Thus, in the case of the Alameda County plan of 1916, all the ten existing cities would have been called boroughs. By the addition of unincorporated area, four would have been substantially increased in size and two augmented slightly. The eleventh borough would have been created de novo from unincorporated land in Washington township.

Thus, boroughs may constitute the lower-tier governments in a federation. (But they are not necessarily employed as the local areas from which members of the metropolitan legislature are chosen; sometimes larger election districts have been proposed for this purpose.) As a result of this new nomenclature for the local governmental level, federation is sometimes called the borough plan.^{4/}

^{4/} The term "borough" is at times employed in ways unrelated to federation, however. For example, in New York City, it identifies administrative entities, which have no legislative powers, and consequently are not governments. The term is also used to identify various types of local governments in certain states, Alaska, New Jersey and Pennsylvania, for example. But none of these uses represents the concept of borough as employed in a federation, i.e., the local unit of government in a metropolitan-local system. A historical discussion of the term is contained in Orval Etter, The Metropolitan Borough: What Is It? (Portland Metropolitan Study Commission, Portland, Oregon, January, 1966).

4. The Toronto Area Federation: How It Came To Be

Despite many differences in governmental tradition and geographic circumstances, the Toronto experience is perhaps the most instructive evidence available that a metropolitan federation can be installed and that it will work. As noted earlier, the Toronto area's leap into federation in 1953 was the first successful attempt on the North American continent. Like its counterparts in the United States, the Toronto metropolitan area had serious problems of areawide impact. The needs of some local communities, especially in education, were far outdistancing their financial resources, sometimes to the point of approaching bankruptcy. Growing deficiencies in water supply and sewage disposal were afflicting many suburban localities. Other unmet needs -- in highways, mass transit, housing, and land use control, for example -- were similarly reaching a stage of considerable aggravation.

But there were -- and are -- similar needs in many areas of the United States. Federation became a reality in the Toronto area chiefly due to a combination of two factors, both of which have been absent in all the many metropolises in the United States where this approach has been discussed or proposed. First, there was an impartial official board with power to propose a plan of governmental reorganization. Second, the action of a provincial (state) legislature was sufficient to accomplish reform.

The Ontario Municipal Board is a quasi-judicial and administrative agency -- appointed by the provincial government of Ontario -- which is generally without equal in the American states. (Probably

its closest kin in the United States is the Alaska Local Boundary Commission.) Besides exercising control over local public finance, the Ontario board may order, without a local vote, various types of boundary adjustments, including the consolidation of localities, or the establishment of certain new governmental units.

Amid a setting of growing problems, separate applications were made by three municipalities, asking the Ontario Municipal Board for various changes in the governmental structure of the Toronto area. The board's hearing began in June, 1950, and lasted approximately a year. It elicited strong participation by local governmental officials and private individuals, who presented several million words of testimony and submitted some 300 items of evidence. The board took the matter under advisement in mid-1951, but did not publicly announce its decisions and recommendations until early 1953.

The board denied the applications before it, but concluded that the applicants had effectively demonstrated a pressing need for major reform of the existing governmental system. The Board offered its own proposals for a suitable form of metropolitan government in the Toronto area.^{5/} The provincial Premier was sympathetic and had a bill introduced which largely complied with the recommendations of the Ontario Municipal Board, and it was promptly passed by the legislature in April, 1953. The

^{5/} Ontario Municipal Board, Decisions and Recommendations of the Board (January 20, 1953), p. 42 ff. This publication is also known as the Cumming Report, named for the board's chairman, Lorne Cumming.

metropolitan council was organized in the same month, and the legislation went into full effect on January 1, 1954. Thus was a federation of thirteen municipalities installed in area of 240 square miles containing about 1,200,000 people.

5. The Toronto Area Federation: The First Thirteen Years

The Toronto plan of metropolitan federation, as it operated from 1954 to January 1, 1967 -- when important revisions took effect -- had several prominent characteristics. One was the creation of an areawide government, the Municipality of Metropolitan Toronto, which embraced the territory of all thirteen contiguous municipalities, to carry out functions judged to be essential to the entire area. A second characteristic was the retention of the central City of Toronto and the twelve suburban municipalities to handle functions not allotted to the metropolitan unit. A third feature was the granting to each municipality of constituent-unit representation in the metropolitan legislature.

a. Metropolitan Powers and Shared Functions

The new metropolitan government was initially allocated certain powers in many functional fields -- water supply, sewage disposal, arterial roads, transit, property assessment, health and welfare services, metropolitan parks, public housing and redevelopment, and planning. Its powers were enlarged by provincial legislation in 1957 to include law enforcement, air pollution control, civil defense, and most phases of licensing.

From the beginning, some functions were given exclusively to the metropolitan government (property assessment, for example) while some functions (libraries) remained entirely with the municipal governments. In other matters, the principle of shared functions was utilized in various ways. For instance, in certain shared activities the metropolitan government took on the role of wholesaler. This was true of water supply, where it was obligated to construct and maintain pumping stations, treatment plants, truck mains, and reservoirs; it then sold water wholesale to the municipalities, which in turn retailed it to consumers. This was also true of sewage disposal: the metropolitan government was assigned the building and maintenance of trunk sewer mains and treatment plants, whereas the municipalities administered the local sewage collection systems.

The principle of shared functions was also employed to make the metropolitan government a financial overseer. Thus, the metropolitan government reviewed the bond propositions of municipalities and issued bonds in its own name for those proposals receiving its sanction. Also, the metropolitan unit, on advice of an independent metropolitan school board, determined the amounts of the funds to be approved for school site purchase and building construction, and issued bonds for such purposes against its own credit. Eleven locally-elected school boards, however, were responsible for public elementary and secondary education in the municipalities.

A further application of the shared-function principle gave the metropolitan government authority over aspects of other services for which an areawide need had been conclusively demonstrated.

Accordingly, the responsibility for constructing and maintaining an arterial highway system was given to the metropolitan unit, while local streets remained in the hands of the municipal governments. Similarly, the development and operation of large metropolitan parks went to the new government, and responsibility for local parks stayed with the municipal governments.

Two other powers of the metropolitan government should be mentioned. It selects the members of the Toronto Transit Commission, which consolidated all existing systems and was made the sole supplier of public transportation in the area. It was also authorized to adopt a general plan for the area, which would be controlling in the municipalities after being approved by the provincial minister of planning development.

b. Balanced and Ex-Officio Representation

Another prominent characteristic of the original Toronto governmental plan related to the balance of representation on the metropolitan council. First, an equal number of members came from the central city and the suburbs, both being granted twelve, although at the time the City of Toronto had 60 per cent of the area's population. Second, each of the twelve suburbs was allocated a single member, regardless of size. Accordingly, the metropolitan council was composed of twenty-four members if it selected its chairman, the chief executive officer, from its own membership, or twenty-five members if it chose an outside person. (To date the council has always chosen its chairman from outside.)

The federation act also provided for officials of the constituent municipalities to serve as the members of the metropolitan council. Consequently, Toronto's representatives were the mayor, the two controllers^{6/} receiving the largest number of votes in the last citywide election, and the nine aldermen (councilmen) receiving the largest number of votes in the last municipal election. In turn, the heads (mayors and reeves) of the other municipalities represented the suburbs. The terms of office of metropolitan council members and the chairman were initially set at one year.

c. Accomplishments and Criticism

In the thirteen-year period before a basic change in the Toronto area federation went into effect on January 1, 1967, the metropolitan government registered important accomplishments. The greatest progress was achieved in areas considered critical in pre-federation days -- water supply, sewage disposal, and education. Vast increases were made in the capacities of facilities relating to the first two and many new structures and additions were built for schools. Significant advances were also made in mass transit, expressway construction, air pollution control, and law enforcement. The establishment of an excellent credit rating was another major accomplishment of the metropolitan unit, facilitating the financing of capital improvements and saving millions of dollars in interest charges. By the end of the thirteen-year period, none of the thirteen member municipalities wished to return to the pre-federation arrangement.

^{6/} Four elected Toronto controllers, along with the mayor, constitute a board of control possessing important financial and personnel authority in the Toronto city government.

The federation did receive criticism during this period, however.^{7/} Some of the critical comment centered on the lack of assertiveness by the metropolitan government in the fields of public housing and area-wide planning. Other complaints pointed to the priority given public works programs -- where concrete results could be quickly demonstrated to the public -- to the virtual exclusion of the more controversial, socially-oriented problems in such a field as welfare. (But it should be pointed out that metropolitan officials deliberately chose to concentrate first on high priority physical and service problems which could readily be alleviated as a means of showing the value of the new metropolitan-local system.)

The most frequent point of criticism involved the formula of representation of the metropolitan governing body. From the outset, there was strong opposition to the allocation of one seat to each suburban municipality, irrespective of population. In the beginning, each of the three smallest municipalities had only about 8,000 or 9,000 people, while the three most populous suburbs had populations of approximately 110,000, 79,000, and 70,000. Thus, the largest outlying municipality had more than thirteen times as many inhabitants as the smallest. These suburban population discrepancies, great as they were at the outset, increased during the subsequent thirteen years.

^{7/} For criticism and discussion of accomplishments, see Albert Rose, "The Case Against Total Amalgamation in Metropolitan Toronto," Public Affairs Report (Berkeley: Institute of Governmental Studies, University of California) 4: 1-5, April, 1963; Municipality of Metropolitan Toronto, Metropolitan Toronto, 1953-1963: A Decade of Progress (1963), and comparable later reports; and Frank Smallwood, Metro Toronto: A Decade Later, Toronto: Bureau of Municipal Research, 1963.

Opposition to the allotment of equal numbers of seats between the central city and suburbs did not develop at the inception of federation, although Toronto then had almost three-fifths of the total population. Toronto was deliberately underrepresented to avoid control of the metropolitan government by the central city. Opposition to this aspect of the representation formula crystallized, however, as the years passed and the suburbs outgrew Toronto, which has now declined to about 40 per cent of the area's total population.

6. The Toronto Area Federation: The Reorganization of 1966

a. Municipal Consolidation

In 1966, new provincial legislation made significant changes in the Municipality of Metropolitan Toronto, while reaffirming support for the two-level approach.^{8/} The most important alterations were consolidation of the thirteen municipalities into six, increase in the size of the metropolitan council, and reapportionment of the membership. The six municipal governments consist of the City of Toronto and five boroughs. The limits of the central city and three boroughs were enlarged through mergers of two, three, or four units. The boundaries of the two remaining boroughs were unchanged; these two had been the most heavily populated suburban governments under the original federation of thirteen municipalities. (Also, the eleven

8/ Preceding the legislation, a royal commission, consisting of a single commissioner, H. Carl Goldenberg of Montreal, undertook a two-year study of the existing federation. The findings and recommendations, which were followed partly by the provincial legislature, appeared as Report of the Royal Commission on Metropolitan Toronto, June, 1965.

local school boards were consolidated into six and their territorial jurisdictions made coterminous with those of the six municipalities.)

b. Redistribution of Representation

The metropolitan council was expanded to thirty-two members (or thirty-three in the event its chairman is selected from outside the body). The enlarged City of Toronto was allotted twelve members and each suburban borough was granted between two and six members. The crucial point, however, was that representation of the boroughs was based upon the 1964 population of the City of Toronto, as enlarged, divided by twelve. Consequently, at the outset of the installation of this system of representation, each member of the metropolitan council represented about 55,000 to 60,000 residents. The new representation formula was made subject to periodic review by the provincial government, the first review being scheduled to take place between 9 and 12 years after the reorganization of 1966.

The new representation formula drastically changed the previous arrangement. Furthermore, it closely approximates equality of representation for all voters, a principle which has been adopted in recent years, as the result of court rulings, in reapportioning most state legislatures in the United States -- as well as even more

recently in reconstituting various county boards of supervisors, city councils, and school boards.^{9/}

c. Other Alterations

Some other changes resulted from the 1966 provincial legislation. The terms of office of the chairman and other members of the metropolitan council were increased from two to three years; the terms had been one year from 1953 to 1956. The council's executive committee was enlarged to eleven members, including the chairman, four Toronto council members and the mayor, and the five mayors of the suburban municipalities. (Previously, the executive committee first had five members and later was enlarged to seven.) It is a powerful committee, responsible for preparing the annual budget, awarding all contracts,

^{9/} The strikingly close relationship between the allocation of the 32 seats to the member municipalities and their proportion of the total population is shown below:

Population of Municipalities and Allocation of
Metro Council Seats: 1966 Reorganization

Municipality	Population	Allocation of Metro Council seats	Allocation based on population (rounded)
Toronto	695,000	12	11.9
North York	396,000	6	6.8
Scarsborough	277,000	5	4.7
Etobicoke	263,000	4	4.5
York	144,000	3	2.5
East York	95,000	2	1.6
	1,870,000	32	32.0

nominating all heads and deputy heads of departments, and initiating policy proposals. As before, it takes a two-thirds vote of the council to overrule the executive committee on the award of contracts and nomination of officials.

The powers of the metropolitan government were increased in such fields as welfare housing and waste disposal. In addition, the metropolitan government was empowered to provide greater equalization of school finances. On the basis of estimates submitted by an independently selected metropolitan school board, it was authorized to pay from its funds the amounts needed annually for the local school boards to furnish adequate educational services.

d. Major Unchanged Features

Some fundamental aspects of the metropolitan federation were not changed. No powers possessed by the metropolitan government were given to the municipalities. Elected officials of the municipalities still constitute the entire membership of the metropolitan council (unless the chairman should be selected from outside). The overall territorial boundaries of the Metropolitan Toronto federation remain the same.

Possible Relevance of Federation to the Bay Area

1. Action by the provincial (state) legislature, based upon recommendations by an independent investigating body, is an effective way to accomplish metropolitan reform. Moreover, the adoption of metropolitan reform by legislative act alone, instead of with popular referendum, retains for the legislature the authority to effect further reorganization later if it should prove necessary.

2. The areawide and local levels of government may logically share some functions, the former handling regional aspects and the latter taking care of others.

3. The metropolitan government may appropriately serve as an "umbrella" agency for specific purposes -- approval of local bond proposals, equalization of financial resources, and appointment of other governing boards responsible for particular activities -- transit in the case of Toronto. Thus an upper-level government can influence local and regional policies, insuring consideration of the regional welfare, without engaging in direct management of all regional and local functions.

4. Regional planning is an important power of the upper-tier government in a federal system. In Toronto, for example, the metropolitan government can draft general regional plans which, after provincial approval, are binding on the local governments. The latter are responsible for local planning and zoning.

5. A powerful executive committee is essential when the governing body of the federation reaches a certain size. Toronto's experience suggests that a twenty-five member body requires a smaller executive committee if it is to function effectively.

6. Periodic review by an independent agency -- possibly a committee of the legislature -- plus freedom to reorganize in the light of experience and changed circumstances, are crucial if the regional government is to be kept up-to-date.

The Comprehensive Urban County

The comprehensive urban county, a second kind of two-level system, features a general metropolitan government in addition to local units, thus resembling federation. The major difference is that under the urban county plan, an existing county government is converted into a general-purpose metropolitan agency through the simultaneous transfer of a number of functions from other local governments. Accordingly, the urban county -- rather than a metropolitan-level government created by federation -- handles activities of an areawide nature, while municipalities and other local entities continue to provide local services. Because of this, and the fact that Dade County encompasses an entire metropolitan area, the Miami experiment, although based on a single pre-existing county, is fully as relevant to the study of functional reallocation at the metropolitan level as the experience of a true federation like Toronto's.

1. Dade County (Miami): The Plan in Action

The first comprehensive urban county system to become operative in the United States went into effect in Dade County (Miami), Florida, in July 1957, and has been functioning there ever since.^{10/} Dade

^{10/} Support for the comprehensive urban county plan has been growing in the last twenty years. This is particularly true of metropolitan areas situated within the limits of a single county, as well as others which are intercounty, but have most of their population in one central county. (Most metropolitan areas are still of one-county size.) The greatest attraction of the plan is its ability to employ an existing unit for metropolitan purposes instead of establishing a new government. Recent efforts in support of the comprehensive urban county approach have been made in five metropolitan areas -- Cleveland, Dayton, Pittsburgh, Houston, and Miami. During the 1950's and early 1960's, the efforts failed in the first four areas, but succeeded in Miami (Dade County).

County comprises a large area and population, containing 2,054 square miles -- a portion of which, however, is uninhabitable swampland -- and more than a million people. It also is one of the nation's fastest growing metropolitan areas, having tripled its population in twenty years.

a. Background and Adoption

There had been some functional consolidation in Dade County during the 1940's. A countywide health department was established, the county acquired the area's principal hospital, and a county port authority was created. But reorganization received its real impetus when voters in the City of Miami only narrowly defeated a citywide referendum to abolish the municipality and transfer its responsibilities to the county government. This prompted the steps leading to installation of the comprehensive urban county system. A professional survey of the need for governmental reorganization was financed in 1954 and a proposed constitutional home rule amendment for Dade County approved by the state electorate two years later.^{11/} In May, 1957, the county voters approved, by a slim majority, the comprehensive urban county charter prepared by a gubernatorially-appointed board. The charter was required to obtain only a single countywide majority, which it did by a margin of less than 1,000 votes. A heavy affirmative electoral response in the City of Miami tipped the scales in favor of the charter.

^{11/} Public Administration Service, The Government of Metropolitan Miami, (1954).

b. The Structural Renovation

The charter provided for a county government strengthened both structurally and functionally, and for the retention of all existing municipalities, then numbering twenty-six and in 1961 increased to twenty-seven. Most of the cities had fewer than 10,000 population. In contrast to the municipalities in the Toronto federation, which are contiguous and encompass all the population, the municipalities in Dade County include only about three-fifths of the total population. In other words, almost two-fifths of the county's inhabitants reside in unincorporated territory that is often urban in nature.

Charter adoption accomplished substantial internal reorganization. It converted the assessor, tax collector, surveyor, supervisor of voter registration, and purchasing agent from elected officials to appointees of the county manager. He, in turn, was made appointive and removable by the board of county commissioners, the legislative body of the metropolitan county. The county manager was placed in charge of the county's administrative operations. The charter also authorized the county board to convert the sheriff and constables from elective to appointive status, which they did.

Under charter provisions that went into effect in 1958, the entire county was divided into five districts for representation purposes. Voters in each district elected one commissioner to the county board. In addition, another commissioner from each of the districts was elected by a countywide vote. (This represented a compromise between the proponents of a ward or district system and those who preferred countywide elections.) Finally, a commissioner was

elected from each city with an official population of not less than 60,000. All were chosen for four-year terms. Accordingly, the first application of these charter sections produced a governing body of eleven commissioners, since Miami was the only city of over 60,000. Hialeah and Miami Beach both qualified for additional representation after the federal census of 1960, whereupon the number of commissioners increased to thirteen.

c. Enlarged Powers

The county government also was granted considerable new authority under the charter. It may build arterial roads, own and operate transit systems and transportation terminals, and regulate traffic. It may provide for hospitals, health and welfare programs, park and recreational sites, public housing, urban renewal, air pollution control, flood and beach erosion control, and drainage. It may regulate or own a broad range of public utilities and promote the area's economy. It may provide central records, training, and communications for fire and police protection. In addition, the county government was given the authority both to prepare and enforce comprehensive plans for the county's development, and to adopt and implement zoning regulations, as well as uniform building and related technical codes throughout the county.

The county government was also given authority to set reasonable minimum standards for all governmental units in the county for the performance of any function, and to assume responsibility for any local service failing to meet the standards. Approval of the county governing body is required -- as well as consent of the local voters

under most circumstances -- for any proposal to form a new municipality or to annex territory to an existing city. On the other hand, no municipality in existence when the charter was adopted may be abolished without the sanction of a majority of its electors voting in a special election called for that purpose.

d. Challenge and Support: Attempts to Alter the Plan

The reorganized Dade County has been subjected to repeated attempts to change its basic structure, most of them designed to weaken the reform arrangements. However, the efforts at change have subsided in the last few years, in part because some of their goals were realized, and, in part, because the system now seems to have attained a degree of stability.

One line of attack, tried unsuccessfully both in 1957 and 1961, was to reinstate almost without exception the distribution of functions in existence before the charter's adoption. A second line of attack attempted to reinstate some or much of the precharter organization of the county government.^{12/}

Another set of efforts were aimed at strengthening the metropolitan level of government. One more called for a basic alteration in

^{12/} A substantial part of this effort was directed at returning the offices of sheriff and assessor to elective status. After three such attempts in four years, the sheriff's position was again made elective by a close vote in 1963. Another part of this second line of attack was designed to replace the council-manager form with the previously existing commission form; this proposal, included within a sweeping amendment, met defeat in 1961.

the procedure for choosing the county governing body. It provided for reduction of the county commission from 13 to 9 members. Eight commissioners were each required to be residents of eight newly formed districts, but the ninth member, the chairman-mayor, could live anywhere in the county; all nine were to be elected from the county at large. This proposed amendment was approved by the electorate in 1963. The other suggested change would have supplanted the council-manager form of county government with the strong-mayor form. It was, in part, an outgrowth of repeated criticism of the county's political leadership, which was generally termed inadequate under the reformed system -- as it also had been under the pre-existing form of government. A serious effort was made on behalf of this proposal in 1964, but it failed to get enough signatures to qualify for the ballot.

e. Problems of Leadership and Finance

Two major problems confronting the metropolitan governmental system in Dade County are leadership and finance. No form of governmental organization is able to guarantee top-quality leadership, but it is evident that neither of the first two county managers, both of whom were dismissed by decisive votes of the county commission, could find the right combination of techniques under the conditions that prevailed. The rapid turnover of managers -- two removed in the first seven years -- also contributed to the early vicissitudes of the reform.

Some observers hold hope for increased leadership by the recently established office of mayor, the holder of which is elected on a county-wide basis. But countywide election may not be enough; a definite assignment of policy-making responsibilities to the mayor may be

needed to generate the necessary leadership capabilities. In any event, the charter's original council-manager arrangement, with no elected executive, has given way to one containing such an executive. It remains to be seen whether the small-commission-mayor-manager "mix" will provide the requisite elements for effective leadership.

Financial problems are severe. The county has been forced to continue with the old, highly restricted tax structure of pre-reform years, despite a great increase in responsibilities. These include furnishing more areawide services, in addition to providing municipal services for the large and continually growing population of the unincorporated areas. Due in part to legal difficulties and uncertainties, the county has been unable to install an equitable means of financing municipal services in the unincorporated sections. Furthermore, the state has not yet taken on additional obligations in certain important fields, such as welfare and health, nor has it authorized a broader financial base for Dade and other heavily populated counties. With a reapportioned legislature meeting in 1967, however, there is increased hope for state action on both fronts.^{13/}

f. The Problem of Divisiveness

The most fundamental problem of Dade's comprehensive urban county system has been the continuing conflict between the "consolidationists," who wish to abolish the cities, and the "localists," who wish to eradicate the metropolitan powers of the county government. A strong effort

^{13/} Edward Sofen, The Miami Metropolitan Experiment, 2nd ed. (Garden City, N.Y.: Doubleday Anchor, 1966), p. 209, 232.

to make the system work is needed, instead of repeated divisive attempts to implement such contradictory aims. Furthermore, although the municipalities are formal partners in the two-level system, many of their officials have been obstructionists, opposing almost every effort to institute areawide services and facilities. Their tactics proved so harassing that in 1962 the county manager recommended consolidation of the twenty-seven municipalities and the county into a single unit. If the two-level system is to emerge as an effective and long-range answer for Metropolitan Miami, a better spirit of cooperation must somehow be developed between the two interlocked elements, the county and the municipalities.

2. Possible Relevance of the Comprehensive Urban County Approach to the Bay Area

1. Since the Bay Area is a nine-county complex, the comprehensive urban county approach probably would be useful chiefly to improve the existing county governments' ability to deal with those problems that can be solved by single-county action.

2. The areawide powers granted to the metropolitan government in Dade County to adopt and enforce comprehensive plans, zoning regulations, and uniform building and related technical codes, constituted a major breakthrough at the metropolitan level in the United States. These powers are widely recognized as crucial instruments for the intelligent direction of urban growth, but they are also some of the most jealously guarded prerogatives of local governments in virtually all metropolitan areas.

3. Endowing a county or areawide government with authority to determine and enforce reasonable minimum standards of service for cities and non-school local special districts could be a method for strengthening the local government level.

4. An independently elected chief executive may be necessary for effective public leadership in an areawide government.

5. Extremist positions for and against metropolitan reform may have a seriously debilitating effect on any newly formed metropolitan government before it has had an opportunity to be tested fairly. Referenda and threats of referenda have been employed as a major weapon in the continuing campaign of harassment of Dade County. Contrast this with the Toronto experience, where reform enacted by legislation without referendum protected the new government and gave it a chance for a fair trial.

Regional and Subregional Multi-County Districts and Agencies

Regional and subregional multi-county districts provide one of the most promising approaches to metropolitan problems. They lend maximum flexibility, and can be installed with a minimum of disturbance to existing units, if that is desired. They may be assigned as few or as many functions as circumstances require. Normally they are given only a small number of functions. In this, they differ somewhat from the other two-level approaches, federation and the comprehensive urban county, which generally have multiple purposes and thus are considered to be general-purpose governments. Theoretically, of course, a district could be assigned as many powers as a full-fledged

federation. In practice, however, they have not been: most provide only a single service.

This section will concentrate on regional and subregional multi-county districts (hereinafter usually referred to as metropolitan districts) that are independent governmental units. They meet the same test as do cities, counties, and other governments, i.e., they are organized entities of a public character. For instance, their officials are elected by the voters, or appointed by elected officials, and the districts possess considerable fiscal and administrative independence.^{14/}

1. Many Functions, Many Districts

Metropolitan districts across the nation undertake a broad variety of activities.^{15/} Most common are the provision of port facilities, sewage disposal, airports, mass transit, regional parks, public housing, and water supply. In recent years there has been a noticeable increase in mass transit districts. Other activities less

^{14/} The districts (sometimes called authorities) thus are separate governments and should not be confused with the dependent districts that are subordinate agencies of state and local governments and have no effective autonomy.

^{15/} Three general studies of metropolitan districts have been made: John C. Bollens, Special District Governments in the United States (Berkeley: University of California Press, 1957); Max A. Pock, Independent Special Districts: A Solution to the Metropolitan Area Problems (Ann Arbor: Legislative Research Center, University of Michigan Law School, 1962); and Advisory Commission on Intergovernmental Relations, The Problem of Special Districts in American Government (Washington: 1964).

commonly carried out by metropolitan districts include air and water pollution control, bridge construction and maintenance, electricity supply, flood control, hospital facilities and care, and libraries. Still others include insect pest control, public health services, transport terminal facilities, and tunnel construction and maintenance. In aggregate, then, these districts have attacked some of the most serious areawide physical problems confronting metropolitan regions.

The growth of metropolitan districts, especially in the past 20 years, is one of the most pronounced trends of governmental change in the United States. They are now functioning in a large number of metropolitan areas, especially in the heavily populated centers. In many areas they are the only form of metropolitan government in existence.

2. Reasons for Growth of Metropolitan Districts

a. A Last Resort

One reason for the expanding number of metropolitan districts is the frequent view of them as a device of last resort, installed only after more thoroughgoing changes have been rejected. In the St. Louis region, for instance, areawide difficulties continued to mount after the defeats of city-county consolidation in 1926 and of federation four years later.^{16/} Subsequently St. Louis has used the district

^{16/} For a recounting of the various reorganization efforts in Metropolitan St. Louis, see John C. Bollens, ed., Exploring the Metropolitan Community (Berkeley: University of California Press, 1961), p. 61-69, 97-178; Henry J. Schmandt, Paul G. Steinbicker, and George D. Wendel, Metropolitan Reform in St. Louis (New York: Holt, Rinehart and Winston, 1961).

mechanism twice, first in 1949 with the formation of the Bi-State Development Agency through an interstate compact, and again in 1954 when the Metropolitan St. Louis Sewer District was formed through dual voter consent in St. Louis and St. Louis County. An epidemic of encephalitis, attributed by some people to the serious sewage problem in the suburbs, helped substantially to elicit popular support for the sewer district proposal. In 1963, the Bi-State Development Agency, which initially restricted itself to providing limited dock facilities, completed the purchase of all privately-owned mass transit companies in the area. Two years later it began operating an airport.

b. A Mild Method

The previously mentioned mildness of the metropolitan district method has been another contributor to its growing use. It causes a minimum of disturbance among units of the existing governmental system. Thus it has considerable appeal to many local public officials and employees who believe major reorganization would affect them detrimentally -- through loss of position, power, or job seniority. A metropolitan district furnishes a means of dealing with a particular problem, often on an isolated basis without regard for related metropolitan matters, thereby avoiding the politically more painful task of formulating a rational general plan of governmental organization. Thus, a district can be an "easy" resort as well as a last resort.

c. Limited Finances

The narrow financial base of many metropolitan districts has also proved attractive in some quarters and has fostered the trend. Many of these units must depend completely or chiefly on non-tax sources -- service charges, tolls, and rents -- and on bonds whose principal and interest must be paid from operating funds. Withholding the power to levy taxes and to incur general obligation indebtedness may appeal to those who would minimize expenditures, but it also limits the activities in which districts may participate.

Certain areawide functions simply cannot be performed on a profit-making or self-sustaining basis, and metropolitan districts not endowed with broad financial authority are unable to deal with some of the most important problems of the metropolis. For example, when the Massachusetts Bay Transportation Authority was formed in 1964 to provide mass transit in the Boston area, the state legislature, realizing that fare receipts would be insufficient, earmarked additional money to help support the system, using the returns from an increase in the state cigarette tax.

d. Ease of Formation

The ease with which metropolitan districts may be formed has also sped their numerical growth. Seldom has a state constitutional amendment been required to authorize activation of a district. This contrasts markedly with the legal obstacles to the federation and comprehensive urban county approaches. State enabling legislation is the usual means of establishing metropolitan districts. Frequently metropolitan districts are established without any local referendum. Often when a

popular referendum is required for formation, only a single area-wide majority is specified.

Three methods of district activation without referendum have been utilized. Some districts, including the air pollution control and rapid transit districts in the San Francisco Bay Area and the rapid transit district in the Los Angeles area, were created by special state legislative acts. Others, including the Cleveland Metropolitan Park District, were created under state legislation requiring action by local public officials.^{17/}

e. Indirect Methods of Selection

In many instances the members of the district governing board are selected by appointment and not through direct election by the voters. Furthermore, the method of indirect selection may be so devised as to render public accountability of the governing body membership virtually impossible. The members of the Cleveland Metropolitan Park District, for example, are appointed by judges of the common pleas court. Sometimes the appointing authority is distributed among several different agents, and a consenting requirement added, thus producing a complex scheme. In the St. Louis area, for instance, three members of the Metropolitan St. Louis Sewer District are chosen by the mayor of St. Louis with the approval of the judges of the circuit court in the city. The other three members are appointed by the

^{17/} Still others, including the Port of New York Authority and the Bi-State Development Agency of the St. Louis area, are based on interstate compacts passed by the respective state legislatures.

elected county chief executive of St. Louis County with the consent of the local district judges. Even more complex and bewildering is the method of selecting the governing body of the Chicago Transit Authority. The mayor of Chicago selects four members with the consent of the governor and the city council. The governor chooses the other three members, one of whom must live outside Chicago. The governor's appointees must be approved by both the state senate and the mayor of Chicago!

f. Constituent-Unit Concept

In some district legislation, mostly of recent origin, representation is based on the constituent-unit principle. This means that members of the governing body are appointed by the governing boards of the general governmental units situated within the district. Sometimes but not always the governing boards must choose the representatives from among their own members. Such a procedure is said to promote greater inter-governmental cooperation and coordinated planning. It also assures that control of the metropolitan district will rest with officials of the general local units. Consequently local officials are often in the forefront in advocating the constituent-unit concept.

In the Municipality of Metropolitan Seattle -- which is actually a metropolitan district -- the governing body consists of the mayor and seven councilmen of the central city, the three members of the county board of commissioners, mayors or councilmen from the area's three largest municipalities other than Seattle, a mayor or councilman from one of the remaining eight municipalities chosen by vote of their mayors, and a chairman, who must be a private citizen, selected by the fifteen.

The Bay Area Air Pollution Control District and the Bay Area Rapid Transit District, both in the San Francisco area, also employ the constituent unit principle. A portion of the membership is selected by county supervisors, and the other portion by city selection committees, i.e., by countywide conferences of mayors. All air pollution control district directors must be mayors, councilmen, and supervisors, equally divided between city and county officials. By contrast, laymen may be and have been appointed to the rapid transit district board.

The recently established Southern California Rapid Transit District employs still another variation of the constituent-unit principle. Five members are appointed by the county board of supervisors, two by the mayor of Los Angeles with the council's confirmation, and four by a suburban city selection committee. The selection committee is made up of one council member from each city within the district, other than Los Angeles. In choosing the four non-Los Angeles city representatives, each member of the selection committee is entitled to cast one vote for each \$10 million, or major fractional part thereof, of assessed property value for district purposes in his city. However, each committee member is entitled to at least one vote, and no member may have more votes than those of all the other cities combined.

For the purpose of determining representation, a novel procedure was written into the law. The city selection committee may group or combine the areas of the cities within the district, except Los Angeles, into corridors based on existing or proposed transit lines or in any other manner, irrespective of contiguity.^{18/} The cities have been

^{18/} Cal. Stats., 1964 Extra. Session, ch. 62 (Public Utilities Code Sec. 30000-31520).

placed in four groupings to provide a representative from each of the four major proposed travel corridors as outlined by the district engineers. The directors of the Southern California Rapid Transit District may be, but are not required to be, members of the governing bodies of the cities and the county within its boundaries; a number of directors are private citizens.

g. Criticisms of Appointment Method

The appointment method of selecting metropolitan district governing board members -- including the constituent-unit principle -- has been criticized on the ground that such districts are insufficiently accountable to the public. Certainly when local public officials serve as the metropolitan district board members, the process of public control becomes indirect and rather ineffective. The local public, for example, may remove a public official from the metropolitan board by defeating him for re-election to the local post (or in some states, including California, by recalling him from his local office). But the "regional public" has no way of registering its dissatisfaction with such a representative at the polls. Even the local public may not do so if it is satisfied with the representative's performance in his city or county post, and judges his local record to be more important than his performance in the metropolitan unit. In practice, therefore, a metropolitan district board made up of local officials is not directly accountable to the voters or the "public."

Utilization of the district mechanism for a series of single or very limited purposes has produced a formidable problem of representation and democratic control. Appointment fails to provide adequate

accountability to the public. Election of a district governing body provides a semblance of direct accountability and control, but it is often a fiction because there is little competition for the offices and little voter attention to the elections, due in part to the narrow functional base of operation. Moreover, as these districts of limited scope grow in number, popular control becomes attenuated to the point of nonexistence because the voters simply cannot follow the activities of multiple districts.^{19/}

3. The Multipurpose District Idea

Experience with the problems of single-function metropolitan districts -- which include lack of coordination in dealing with area-wide problems, the irrational allocation of financial resources, increased governmental complexity, and the dilemma of representation -- has stimulated interest in multipurpose districts. Such units could be created in several ways: granting existing districts more functions, consolidating those already in operation, or establishing new districts empowered to provide a broad range of areawide functions. Thus far little has been accomplished along any of these three lines. Single-purpose districts continue to operate under their narrow power grants. No important consolidations have taken place. The few broad authorizations have not been employed to full advantage but instead have been utilized in a very restricted manner. For example, multipurpose district legislation was enacted in the state of Washington in 1957, but the district formed under the law in the Seattle area, called the Municipality of

^{19/} Bollens, Special District Governments in the United States, pp. 252-254.

Metropolitan Seattle, performs only sewage disposal. Twice it has unsuccessfully sought to undertake additional functions.^{20/}

4. State and Interstate Agencies

a. Metropolitan District Commission

At times a state agency, instead of a locally-controlled metropolitan district, is formed to handle certain areawide functions. A prominent example is the Metropolitan District Commission, which has been operating in the Boston area since 1919, when it was created to take over the responsibilities of two other state agencies, a metropolitan park commission and a metropolitan water and sewerage board. Accordingly, the commission provides regional park facilities, supplies water, and disposes of sewage. It serves a total of 49 cities and towns, which embrace about 2.5 million people and 544 square miles. In effect, there are separate service and financing areas for each of the three functions, and differing numbers of cities and towns are included in each area -- 30 for water, 37 for parks, and 40 for sewerage. All three include Boston.

The commission consists of a commissioner, who is the chief executive, and four associate commissioners, all appointed by the governor for staggered five-year terms and all residents of the district (one of whom must live in Boston). The commission is a state agency, although its activities are carried out for the metropolitan cities and towns and not for the whole state. All its property is held in the name of the state, the Commonwealth of Massachusetts, and its

^{20/} League of Women Voters of King County, The Municipality of Metropolitan Seattle, 3rd ed. (Seattle: 1965), pp. 4, 9.

budget is subject to state legislative appropriations. All expenses incurred in the construction, operation, and maintenance of its services and facilities are first paid by the state and then assessed back to the municipalities within the particular service area (district).^{21/}

b. Delaware River Basin Commission

A recent notable illustration of the use of the compact device is the Delaware River Basin Commission, organized in 1961 for the four-state area centering on Philadelphia. The commission is unusual in several important respects. First, it is based on an interstate-federal compact, the national government for the first time becoming a partner with the states -- New York, Pennsylvania, New Jersey, and Delaware -- in such an agreement. Second, the national government chooses one of the five members of the governing body; the President of the United States makes this appointment. (The other four appointees are selected by the four governors.) Third, the commission has broad powers. It is authorized to undertake river basin planning and water resource project development and operation. Moreover, the commission is empowered to review, and thereafter disapprove or require modification of, proposals by other agencies that substantially affect the region's water resources -- proposals relating, for instance, to flood protection, hydroelectric power, recreation, and water withdrawals or diversions. The commission has no taxing power, but it may issue revenue bonds when it has capital improvements capable of supporting them. During its early years, the agency has been largely

^{21/} Origin, Development and Activities of the Metropolitan District Commission (Boston: The District, 1964), pp. 6,9.

financed by appropriations from the participating states and the national government.^{22/}

c. The Tahoe Regional Planning Agency

The California State Legislature at its 1967 Regular Session created a Tahoe Regional Planning Agency for the California portion (parts of two counties) of the Lake Tahoe basin. The legislation,^{23/} AB No. 1362, contains also the text of a proposed bi-state compact (Government Code Section 66800-66801) which, if approved by Nevada (at its regular 1968 session) and by the U. S. Congress, would extend the jurisdiction of the agency to the Nevada portions of the Lake Tahoe Basin, and expand the composition of the agency accordingly. Duties and powers of the bi-state agency would be identical with those of the one-state agency which is now organizing.

Those duties and powers are extraordinary. Under the legislation -- Government Code Secs. 67000-67130 -- the agency is to prepare, adopt, and review and maintain a comprehensive long-term general plan for the development of (the California portion of) the Tahoe region, including land uses, transportation, conservation, recreation, and public services and facilities. The agency shall adopt all necessary ordinances, regulations, and policies to effectuate the adopted regional plan. It shall, for example, lay down general regional standards for (among other things) zoning, solid waste disposal, sewage disposal, shoreline development and flood plain protection. And it has power to ensure compliance with the regional plan

^{22/} For a case study of the steps leading to the formation of the commission, see Roscoe C. Martin, Metropolis in Transition: Local Government Adaptation to Changing Urban Needs (Washington: Housing and Home Finance Agency, 1963), Chapter X.

^{23/} The legislation as enacted combined the proposals of Assemblymen Z'berg and Mulford, and Senator Teale. It built on the conclusions in the Report [dated February 15, 1967] of the Lake Tahoe Joint Study Committee which was created in 1965 by action of the two state legislatures.

and its ordinances, regulations and policies by legal action if it finds that they are not being enforced by a local jurisdiction.

Financing of the agency, to the extent it is not financed by fees, subventions, state and federal grants, etc., will be obtained by allocating annually the amount necessary to support the agency between the member counties in proportion to the total assessed valuations of property located within the region. Each county will levy a tax on taxable property within its boundaries sufficient to pay the amount allocated to it.

The agency's five-member governing body (pending effectiveness of the interstate compact) would consist of a county supervisor from each of the two California counties in the region, appointed by the respective boards; one councilman of the City of South Lake Tahoe appointed by the Council; one member appointed by the Governor of California, subject to Senate confirmation, who shall not be a resident of the region and shall represent the public at large; and the Administrator of the California Resources Agency.^{24/}

d. New York Experience and the Case Against Authorities

When service or regulatory problems straddle state lines, interstate agencies -- some of which are independent district governments -- are increasingly being established to deal with them. Best known of such agencies is the Port of New York Authority, created in 1921 by an interstate compact entered into by the legislatures of New York and New Jersey and approved by Congressional resolution. According to the compact, a better coordination of the terminal, transportation,

^{24/} Under the bi-state compact, the bi-state agency would have 5 additional members: one member of the Board of Commissioners of each of the 3 affected Nevada Counties (a provision subject to change by the Nevada Legislature), one member appointed by the Governor of Nevada, and the Director of the Nevada Department of Conservation and Natural Resources.

and other facilities of commerce serving the Port of New York would result in great economies, benefiting the nation in general and both states specifically. The authority's governing body consists of 12 commissioners, six resident voters of New York and six of New Jersey, appointed by the governors of the respective states with the consent of their state senates. The authority has no taxing power, but it may make charges and incur indebtedness. Its current debt is approximately \$850 million. The initial mission of the authority was to develop and implement a comprehensive plan that would have given every railroad serving the port access to all parts of the port. This was not achieved, however, and the authority has registered its principal accomplishments in other aspects of transportation, most notably airports, bridges, and tunnels.^{25/}

The Port of New York Authority has acquired or built and now operates four airports, two heliports, six interstate bridges and tunnels, six marine terminal areas, two union truck terminals, a truck terminal for rail freight, and a union bus terminal. Also, since 1962, the authority has operated the Hudson and Manhattan Railroad, a commuter line, which was renamed the Port Authority Trans-Hudson System (PATH). Although the authority has increased the variety of its activities over the years -- usually through additional authorizations by the state legislatures -- they are still all elements of a single major function: transportation.

^{25/} Robert G. Dixon, Jr., "Constitutional Bases for Regionalism: Centralization; Interstate Compacts; Federal Regional Taxation," George Washington Law Review, 33: 59, October, 1964.

The Port of New York Authority did not accomplish its original purposes, in part because it had no independent resources to finance what would have to be done. Instead, it moved in other directions by acquiring, constructing, and operating remunerative facilities. In this, it exhibited the usual and necessary subservience of such authorities to the forces of the money market.

Professors Wallace S. Sayre, Columbia University, and Herbert Kaufman, Yale University, authors of a definitive work on the government of New York City, have commented at length on the area's experience with the Port of New York Authority and other authorities. Such authorities, they report, must interest investors if they are to obtain financing. Investors, in turn, naturally demand security for their investments. They favor money-making facilities and user charges that insure a steady income. They are not interested in new capital investments that may not begin paying high returns quickly. Furthermore, investors oppose construction of other facilities that may compete with existing authority projects. Often prohibitions against such competition are written into the bond covenants.

The authorities tend to operate more like private governments than public ones. They are not subject to public budget hearings as are general-purpose governments. They do not have to justify their spending before the fact. Like private corporations, they have only to explain afterward what they have done, but normally do not have to defend their projects beforehand or to modify their policies after review by superior agencies.

The following statements about "one-sided" agencies such as the Port of New York Authority deserve consideration:

In sum, their operating policy decisions, as these are reflected in their budgets, are made internally rather than in dealings with outside agencies and officials, in private rather than in public, and the authorities are the undisputed masters of their own operating resources.^{26/}

The authorities are relatively well shielded against outside influences by their security of tenure, their fiscal independence, and their administrative freedom.^{27/}

The authority chiefs . . . are distinguished by their singular success in effectuating policies and programs they prefer personally. Their insulation has stood them in good stead, and their strategies have made the most of the advantages insulation affords them.^{28/}

The very triumphs of the authorities have given rise to searching, increasingly skeptical second-looks at this administrative device. It has been questioned on the grounds that public functions should not be several steps removed from constant control by the elected executives of the city, and that decisions about the quality, quantity, and kinds of public service, and the charges for it, should not be shielded from public pressures any more than decisions about taxation are . . .

The skewing of governmental resources, particularly public investment, away from service functions that do not pay their way and toward enterprises that make money has also engendered anxiety. And the more rapidly the authorities grow, and the more self-directing they appear, the more profound are the uncertainties and anxieties about their position.^{29/}

^{26/} Wallace S. Sayre and Herbert Kaufman, Governing New York City: Politics in the Metropolis (New York: W. W. Norton, 1965), p. 331.

^{27/} Ibid., p. 337

^{28/} Ibid., p. 342

^{29/} Ibid., p. 343

5. Possible Relevance of Metropolitan Districts to the Bay Area

1. Much recent and current Bay Area discussion of approaches to regional problems has centered on metropolitan districts, in one form or another.

2. The formation of metropolitan districts by state legislative action without referendum has ample precedent in the Bay Area and elsewhere.

3. Most special districts are subject to severe financial limitations. For example, some are forced to depend heavily on the property tax, while others may be restricted to user charges and revenue bond financing. Such limitations should be minimized if a new district is to be created in the Bay Area, or an old one reorganized.

4. The disposition to establish governing bodies that prove insufficiently accountable to the people is a basic and unresolved issue in the use of the district approach.

5. Regional problems are interrelated. The continued formation of single-purpose metropolitan districts further proliferates governments and disperses public authority. Such districts cannot effectively solve a range of regional problems, and the public has great difficulty in keeping them accountable.

6. Requiring local plans to adhere to a regional general plan should be an important method of fostering better planning in the development of an area, while retaining a degree of flexibility and control at the local level.

7. A multipurpose metropolitan district should be assigned significant responsibilities and powers, both to enhance its problem-solving

capability and to increase its political visibility. Further, in order to reduce fragmentation, and increase accountability, possibly some of the functions now allocated to single-purpose districts should sooner or later be assigned the multipurpose district.

Councils of Governments

Metropolitan or regional councils of governments (COG's) represent a method of dealing with areawide problems that is strikingly different from the other methods analyzed in the preceding four sections of this chapter. Whereas all the methods discussed previously involved the reorganization of established governments or the creation of new units, the COG idea rests on voluntary cooperation of existing governments. Consequently, it is the mildest of all approaches, building on the status quo without disturbing its formal organization. Moreover, unlike the other methods, each of which produces a metropolitan government, the COG approach does not create an areawide government, but instead simply provides a voluntary mechanism for the local units to consider metropolitan or regional needs.

What is currently being proposed by ABAG should not be confused with the voluntary council of government concept. The ABAG proposal would build on the existing voluntary COG framework in the Bay Area, modify it somewhat, and convert it into a limited-purpose regional government: see Chapter VI.

1. Major Characteristics

a. A Forum, Not a Government

A council of governments is a voluntary association of governments formed to provide an areawide mechanism for local officials to study, discuss, and determine solutions to metropolitan or regional problems. It is a continuing forum in which governmental representatives are convened for deliberations and the making of recommendations. Since a council of governments is not a government, however, it has little or no authority to enforce decisions. Instead, its decisions are merely suggestions, whose implementation depend on the concurrence of the various governments that have joined the association.

b. Voluntary Nature

Membership in a COG is a voluntary act taken at the discretion of the individual local governments in a metropolitan area. Any member may withdraw at any time. Local financing is obtained from contributions by the member governments, the specific shares usually based on a population formula. Professional staffs, often very small, are a common feature.

c. Member Governments

The members of COG's are solely or principally local governments, predominantly cities and counties. However, there is considerable variation as to whether or not other governments -- both local and non-local -- are eligible for membership. In some cases, all local governments, including school districts and other special districts,

may join.^{30/} In others, state governments are participants; in the Washington, D. C., organization two states, the national government, and the government of the District of Columbia are members. At the other extreme, in the existing agency in the Detroit area, which may soon undergo reorganization, membership is limited entirely to representatives of county governments.

Most representatives in councils of governments are elected officials, rather than appointed employees of member jurisdictions or private citizens. When many governments belong and the councils are large, much of the work is often handled by an executive committee. The full membership assumes the role of a ratifying body, and meets only occasionally, thus affording it only a perfunctory role as a "regional legislature."

2. A Recent Movement

The council of governments approach is of recent origin: the first COG, unique in that its membership was restricted to counties, was the Supervisors Inter-County Committee, organized in 1954 in the Southeastern Michigan region (Detroit). Next came the Metropolitan Regional Council in the New York region in 1956, followed by the Metropolitan Washington Council of Governments (Washington, D. C.) and the Puget Sound Regional Governmental Conference (Seattle-Tacoma) in 1957.

^{30/} In recent discussions of a restructured council in the Detroit area, the school superintendent of the central city has urged the inclusion of school districts. For an extended treatment of the reorganized Detroit area council, see Metropolitan Fund, Inc., Governmental Organization in Metropolitan Southeast Michigan, Parts One and Two (1965).

To this early group of COG's was added the Mid-Willamette Valley Council of Governments (Salem, Oregon) in 1959, the Association of Bay Area Governments (the nine-county San Francisco Bay Area) and the Regional Conference of Elected Officials (Philadelphia) in 1961, and the Southern California Association of Governments and the Metropolitan Atlanta Council of Local Governments in 1964. These COG's were formed for either or both of two reasons: (1) a conviction that intelligent decision-making about areawide problems must be based on collaborative judgments by the governments in the area and (2) a fear that local governments were otherwise likely to lose important powers to proposed metropolitan governments.

a. Initial Slow Growth

Notwithstanding its simplicity and mildness, the COG idea was slow to catch hold. By 1964 only nine metropolitan areas had COG's, more than a decade after the movement was begun. This was true despite the wide praise and support given to the idea, particularly by national organizations made up partly or completely of local officials. For instance, in 1962, the national Advisory Commission on Intergovernmental Relations acclaimed the COG idea to be "one of the more significant recent developments in local government in metropolitan areas" and later prepared model state legislation authorizing such organizations.^{31/}

^{31/} Advisory Commission on Intergovernmental Relations, Alternative Approaches to Governmental Reorganization in Metropolitan Areas (1962), p. 85. The latest commentary and draft law on councils of government are to be found in: Advisory Commission on Intergovernmental Relations, 1967 State Legislative Program of the Advisory Commission on Intergovernmental Relations (1966), pp. 367-370.

In similar supportive action, the American Municipal Association (now the National League of Cities) and the National Association of County Officials (now the National Association of Counties) inaugurated a joint service to their memberships "to encourage the formation of and to strengthen the operation of voluntary governmental regional councils."^{32/}

b. Varied Difficulties

The COG idea was not only slow to grow but it also encountered numerous difficulties in its early years. Professor Royce Hanson of American University, who made the first general study of the original nine COG's, concluded that "all of them suffered from uncertainties, inexperience in metropolitan cooperation, and lack of adequate financial resources,"^{33/} Also, some councils did not have a very active program. The New York COG, for example, had a persistently precarious existence, and at one time became practically defunct. A number of councils,

^{32/} Joint letter from American Municipal Association and National Association of County Officials, Washington, May 25, 1962. In the following year the two groups jointly issued a collection of exhibits about COG's.

^{33/} Royce Hanson, Metropolitan Councils of Governments (Advisory Commission on Intergovernmental Relations, 1966), iv. Separate studies have also been made of three of these councils. They are: Royce Hanson, The Politics of Metropolitan Cooperation: Metropolitan Washington Council of Governments (Washington: Washington Center for Metropolitan Studies), 1964; Randy H. Hamilton, ABAG Appraised: A Quinquennial Review of Voluntary Regional Co-operative Action Through the Association of Bay Area Governments (Berkeley: Institute for Local Self Government, 1965); and David G. Mars, The Formation of SCAG [Southern California Association of Governments]: A Case Study (Los Angeles: Center for Training and Career Development, School of Public Administration, University of Southern California, 1966). For a short case study of the Mid-Willamette Valley Council of Governments, see Roscoe C. Martin, Metropolis in Transition: Local Government Adaptation to Changing Urban Needs (Washington: Housing and Home Finance Agency, 1963), Chap. III.

including those in the Bay Area and the Southern California region, found it difficult to persuade the largest cities to join.

3. COG Activities

a. Intergovernmental Communications

In the judgment of Professor Hanson, intergovernmental communication is the most significant activity of these nine councils of governments.^{34/} In serving as metropolitan communication systems, these COG's, with the exception of the one in the New York region, have reduced interlocal suspicions and hostilities, thus providing a basis for further cooperation. However, these COG's have had two major difficulties in their metropolitan communications role. First, only the members of executive committees meet frequently, thereby limiting the number of local officials engaged in meaningful discussion of regional issues. Second, since the councils of governments are known only to civic leaders and media representatives -- the public being almost totally unaware of them -- they are not very useful in general political education.

b. Planning, Legislation, Cooperation

The COG's have given planning and development issues considerable attention. Some COG's, including the Association of Bay Area Governments and the Puget Sound Governmental Conference, have become official advisory regional planning agencies. A number also have been engaged in legislative activity, such as recommending to member governments adoption of uniform ordinances concerning gun sales, air

^{34/} Hanson, Metropolitan Councils of Governments, pp. 6-8.

and water pollution, and teen-age drinking. In general, COG's have been less active and less successful in the state legislative field. Further, the associations have provided cooperative services to their members, including studies of mutual problems and sometimes joint action programs. A prominent example of the latter was the establishment by the Metropolitan Atlanta Council of Local Governments of an areawide fugitive squad through the cooperation of local police departments.

4. Expansion of the Movement

In contrast to its sporadic acceptance in earlier years, the COG idea is now being extensively adopted. Nearly every standard metropolitan statistical area now has some form of intergovernmental council or regional planning agency in existence or in the process of formation.^{35/}

a. Federal Stimulation

Amendments in 1965 to the Federal Housing Act of 1954 have served as the major stimulant to the spread of councils of governments. Under Section 701 (g), COG's became eligible to receive grants from the Department of Housing and Urban Development for a wide variety of activities. Included are financial underwriting for studies, data collection, regional plans and programs, and other types of efforts designed to solve metropolitan or regional problems. Also included

^{35/} Interview with Victor Jones, Professor of Political Science, University of California, and Senior Research Fellow, Washington Center for Metropolitan Studies, who is currently examining the organizational response of local governments to the new Federal aid review requirements.

are expenses for general administration and professional, technical, and clerical staffing. Federal grants may be used to pay as much as two-thirds of the cost of the work for which they are allocated.^{36/}

Because of this legislation, a number of COG's will have, among other responsibilities, the functions of an advisory regional or metropolitan planning agency. In areas having both a council of governments and a separate metropolitan or regional planning agency, both are eligible for metropolitan planning grants under Section 701, although normally such grants are made to only one applicant in any area.^{37/} When dual grants are authorized, the two applicants must develop a fully unified program of metropolitan planning.^{38/}

^{36/} Housing Act of 1954, Section 701 (g).

^{37/} Housing and Home Finance Agency, Planning Agency Letter No. 50, August 16, 1965. The Association of Bay Area Governments was recognized as the official regional planning agency before the enactment of the 1965 amendments.

^{38/} Many areas have had metropolitan or regional planning agencies for some time. As in the case of councils of governments, they are almost always advisory and "free floating", possessing no metropolitan governmental base. Due in large part to these characteristics, the "technical accomplishments [of metropolitan planning] have far exceeded its influence on government decisions." U. S. House of Representatives, Committee on Government Operations, Intergovernmental Relations Subcommittee, Metropolitan America: Challenge to Federalism (1966), p. 112. For additional details on planning organizations, see two reports of the U. S. Senate Committee on Government Operations, Subcommittee on Intergovernmental Relations: National Survey of Metropolitan Planning (1963) and The Effectiveness of Metropolitan Planning (1964).

b. Coordinating the Review Function

Councils of governments -- or other appropriate areawide governments or agencies -- authorized to undertake regional or metropolitan planning, can be given the significant additional responsibility of coordinating various Federal grant applications under the Demonstration Cities and Metropolitan Development Act of 1966. The law states:

All applications made after June 30, 1967, for Federal loans or grants to assist in carrying out open-space land projects or for the planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewage facilities and waste treatment works, highways, transportation facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review . . .

. . . to any areawide agency which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and which is, to the greatest practicable extent, composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government within whose jurisdiction such agency is authorized to engage in such planning(Sec. 204)

5. Possible Relevance of Councils of Governments to the Bay Area

1. No council of governments has been transformed from a voluntary association into a metropolitan government, although the Association of Bay Area Governments has initiated an effort to effect such a change.

2. The plan of representation employed by a council of governments may be inadequate as the basis for a regional legislature with significant powers.

3. Councils of governments so far have not generally registered many major concrete accomplishments in solving regional problems.

4. Recent Federal grant and review legislation, however, has virtually assured a growing importance for these councils in the absence of a regional governmental agency in the area.

5. It remains to be seen whether councils of governments generally will constitute a significant instrumentality for metropolitan or regional problem-solving.

CHAPTER VI. THE ABAG PROPOSAL FOR REGIONAL GOVERNMENT

The Association of Bay Area Governments has urged that ABAG, now a voluntary council, be reconstituted by the Legislature as a formal regional government with limited functions, but with the intent of eventually assuming responsibility for Bay conservation and development, as well as other regional programs. Thus it is essential that BCDC examine the ABAG proposal carefully. Furthermore, ABAG's organizational recommendation represents a proposal-in-being, designed specifically for the Bay Area, to which can be applied many of the criteria and lessons learned from the preceding discussion.

ABAG and the Genesis of its Proposal

A notable accomplishment of the Association has been its demonstration to leading city and county officials -- through study and mutual discussion -- that the nine-county Bay Area constitutes a single region and is the primary focus of a number of unsolved problems shared by its constituent communities. Furthermore, ABAG's efforts have convinced local officials that effectively staffed regional planning is essential, and that new organizational and financial arrangements will be required to deal with unmet problems. A primary question remaining is: what kind of regional mechanism or mechanisms should be established?

For more than a year, the Association's Goals and Organization Committee addressed all these matters, and, during the latter period of its assignment, concentrated primarily on the question of governmental

organization in the Bay Area. At the end of September, 1966, the committee submitted a plan for "regional home rule" and government of the Bay Area.^{1/} The plan was reviewed by the Executive Committee and has been debated, modified and approved in principle during subsequent meetings of the General Assembly. At these meetings a number of amendments and other proposals were made, explicitly raising many questions relating to the basic ABAG proposal which are still to be resolved, in addition to further questions which lie beneath the surface and require careful study. The latter part of this chapter will explain the proposal and variants on it, and make a start on the necessary analysis.

Important Contributions of the Proposal

Despite shortcomings to be discussed later, concepts underlying the ABAG proposal represent significant contributions to thinking about Bay Area problems. One of the most constructive elements in the proposal is the clear recognition that a limited-function, multiple-purpose regional government is necessary in the nine-county Bay Area. Although only three functions are outlined to start with -- in addition to advisory regional planning -- the subsequent assumption of other regional functions is envisioned. Purely local functions would remain with the cities and counties.

Another meritorious feature is the proposed method of establishment by direct legislative act. This recognizes the inability of a voluntary agency to perform the difficult acts of government, admits the need to

^{1/} Association of Bay Area Governments, Regional Home Rule and Government of the Bay Area: Report of the Goals and Organization Committee to the General Assembly (September 29, 1966).

avoid referenda on organizational issues of such great complexity, and retains for the State Legislature jurisdiction to reorganize the regional agency later in the light of experience.

The proposal selects three functions that are now or soon will become critical -- functions that are not being well cared for -- and that consequently entail a minimum challenge to existing agencies. The proposal also recognizes that important powers will be essential, including long-term capital financing for property acquisition, and the power of eminent domain.

Furthermore, the proposal embodies an effort to adjust voting power in the ABAG councils to reflect in rough fashion the comparative populations of the constituent units. Also the ABAG action has helped raise public awareness of the issues of regional government to a higher level than ever before. Finally, both the basic proposal and the suggestions put forth for discussion by individual ABAG members, have highlighted some of the critical questions of organization, representation, powers and financing that must be resolved if a satisfactory regional governmental solution is to be achieved. In doing this, ABAG has performed a signal service for the Bay Area, in the tradition of its function as a public forum.

Functions and Powers

1. Functions

The ABAG proposal would, by legislative act, reconstitute the voluntary Association of Bay Area Governments as a limited-function regional government encompassing the nine counties. The proposal would continue

ABAG's advisory regional planning function, and, in addition, give it responsibility for regional refuse disposal needs, regional open space and park needs, and regional airport system needs. Furthermore, the General Assembly meeting of December 16, 1966, approved a Goals and Organization Committee statement of further objectives clearly indicating the intention to go beyond the three enumerated functions:

The Regional Home Rule proposal is directed at creation of a limited-function, general-purpose regional agency to accomplish three primary objectives:

1. Deal immediately with existing priority problems which are not being attacked by existing regional agencies.
2. Prevent the creating of additional fragmentation at the regional level in the future by anticipating problems.
3. Absorb, as appropriate over time, existing regional special purpose agencies and programs.^{2/}

A multi-functional approach such as this appears to have much to recommend it. But the three initial functions chosen for ABAG are limited in scope, and in effect ABAG is open to the criticism that it would begin as a limited-purpose special district of the kind the Goals and Organization Committee finds undesirable in principle.

The criticism would be rendered moot if, in the future, the Association absorbed all other regional functions. But this would be a "back-door" approach to multipurpose regional government. That is, an organization would be created first, then gradually regional functions would be attached to it. Perhaps a better approach would be to look at regional problems first, including but not limited to solid waste disposal, airports and open space, and then design an organization -- or

^{2/} Report to General Assembly, From Goals and Organization Committee (November 30, 1966), p. 4.

organizations, if several groupings of functions appeared to make sense -- whose powers, finance and governmental structure would be tailor-made to solve the problems confronted. This is the approach now being attempted by BCDC and BATS, i.e., first, look at the problems assigned; second, propose plans and solutions; and third, think about organizational and financial arrangements to accomplish the ends set forth. It is also the approach envisioned in the study to be conducted under SCR No. 41 by the Joint Committee on Bay Area Regional Organization.

Adoption of the ABAG proposal for the three functions (plus regional planning) and employment of other organizational means to accomplish the aims of BCDC and BATS, would obviously be contributing to the continued proliferation of regional agencies. Furthermore, having solid waste disposal, airports and the terra firma variety of open space under one jurisdiction, the Bay and shoreline under another, and transportation under a variety of others, would create a situation containing substantial possibilities for conflict, impasse, poor planning and duplication of effort.

The Bay Area has had many object lessons in the failure of one agency to consider the impact of its decisions on others, and vice versa. The termination of open dump refuse burning is an excellent example. This was ordered years ago by the Bay Area Air Pollution Control District as a first step in its program to clean up the basin's airshed. Open dump burning had been a primary method for disposing of the region's solid wastes. With some notable exceptions, however, the agencies responsible for solid waste disposal -- primarily the cities --

failed to prepare themselves for the long-term impact of the open burning ban.

This occurred despite the constituent-unit representation principle on which the air pollution control district was based, partly for the purpose of establishing lines of communication with the cities and counties. These communication lines failed to provide the foresight necessary to avoid the now-imminent solid waste disposal crisis. Had air pollution control and solid waste disposal been the responsibility of a single agency, that agency's governing body might have listened to its staff's warnings about the future impact of the burning ban. Presumably they would have proceeded quickly to develop new means of disposal, and perhaps have phased the cessation of burning to coincide with the availability of alternate methods.

The unresolved dispute between the East Bay Regional Park District and the East Bay Municipal Utility District over who should be responsible for all regional recreational facilities in the area both serve, supplies another example of conflict and duplication of effort. And the potential for destructive competition between the Alameda-Contra Costa Transit District's bus operation and BARTD's rail rapid transit system provides still another object lesson in the kind of interagency conflict that may be created when too many governments begin getting in each other's way.

The ABAG proposal, partial as it is, would not improve the situation very much, initially. Real improvement would require creation of a regional agency with significant power to effect coordination, or consolidation, if necessary.

2. Powers

ABAG's powers under the proposal would include (1) a continuation of advisory regional planning, (2) levying an assessment prorated among the nine counties on the basis of both population and assessed valuation -- the maximum sum that may be raised could not exceed the equivalent of \$0.01 per \$100.00 of the region's assessed valuation; (3) issuance of general obligation bonds and taxation to finance their repayment; and (4) adoption of one or more of three specific regional plan elements for an airport system, parks and open space, and refuse disposal, and (5) eminent domain.

Plan implementation would call for separate General Assembly votes (with both city and county majorities) on the general regional plan, each special plan element, and the proposal for implementation. This would have to include a finding that the "problem is regional and that it cannot be solved by existing city and county governments."

Furthermore, a city or county having ownership or jurisdiction or both over property proposed to be taken could "veto" the action. In this event, an affirmative General Assembly vote of either (1) two-thirds of those present and voting, or (2) one more than 50 per cent of the membership, whichever is larger, would be required in order to overrule the local veto.

The aims outlined in the ABAG preliminary regional plan would necessitate massive public acquisition of open space. Total open space requirements by 1990 are estimated at 864,000 acres. The preliminary plan recommends a public open space acquisition program to provide for resource protection and preservation, open space for health,

welfare and well-being, public safety (flood plains, unstable soil areas, etc.), public service corridors, and finally, open space for urban expansion. The plan emphasizes the importance of the last-mentioned space need:

The largest open space category -- for urban expansion -- is generally designated in areas having lesser resource value as open space, and which can be held as a reservoir for future development. Ideally, the release of these lands for development would be based upon demonstrated need within a regional context.^{3/}

Land acquisition on the scale and for the purposes envisioned would require (1) strong exercise of the police power in the form of land use controls to preserve open space that is to be held open for a long period or in perpetuity, (2) the power of eminent domain, and (3) excellent financial resources to support the "land bank" function in reserving open space for future urban expansion.

The ABAG proposal leaves out the police power altogether. It provides for eminent domain, but under such stringent veto requirements as to render the authorization virtually useless for large-scale projects.^{4/} General obligation bond financing, requiring a two-thirds majority vote, would represent a further imposition on the already

^{3/} Association of Bay Area Governments, Preliminary Regional Plan for the San Francisco Bay Region (November, 1966), p. 40.

^{4/} If all General Assembly members were in attendance, negative votes by either four county members or 31 city members would block an attempt to override a local veto of property acquisition. Given a more typical attendance, for example, seven county and 70 city members, either three negative county votes or 24 negative city votes would block an override. In the latter instance, either the three smallest counties, containing 6.9 per cent of the region's population, or the 24 smallest cities, with a mere 1.8 per cent of total population, could sustain a local veto.

overburdened property tax, and probably militate against authorization of the necessary funding.

New revenue sources will be essential if a regional plan as bold as that suggested by ABAG is to be implemented. Income and sales taxes are likely possibilities:

States should encourage local governments to supplement property tax revenues with other revenue sources. In the case of some large municipalities and in some metropolitan areas, sales and income taxes hold most promise, particularly where they can be piggy-backed on State-imposed taxes with attendant economies of collection.^{5/}

Representation

One of the critical issues confronted in devising a new regional government is the representation formula to be followed. As Chapter III demonstrated, many considerations enter into the choice, and the final decision will do much to determine the future policies of the new agency. Furthermore, court decisions on the "one man, one vote" principle may force proponents of any new government to consider carefully the concept of equal representation when working out their formula.

1. The Majority Proposal and Others

a. The Majority Proposal

As noted above, ABAG attempted an adjustment of its formula to achieve a rough approach to equal representation. This was done in several ways. First, the Executive Committee would be increased to 34 and the membership distributed to give the larger cities and counties

^{5/} Municipal Finance Officers Association, Report of the National Conference on Local Government Fiscal Policy (November, 1966), p. 4.

more votes (see Table 1). Second, the reorganized Executive Committee would become the Association's legislative body, although its actions in planning, financing, and the acquisition of property would be subject to the required General Assembly approval.^{6/} Third, the President and Vice President would be selected for two-year terms by secret ballot of all city councilmen and county supervisors in the region, voting as one body.^{7/}

The other members of the Executive Committee would be chosen by and from among the mayors, councilmen and supervisors as follows:

San Francisco: Two by the Board of Supervisors; two by Mayor; fifth member to be selected alternately by the Board and the Mayor.

San Mateo and Contra Costa (each): One by the Board of Supervisors; one by the Conference of Mayors; third member to be selected alternately by the Board and the Conference of Mayors.

Santa Clara: Two by the Board of Supervisors; two by the Conference of Mayors; two by the San Jose City Council.

Alameda: Two by the Board of Supervisors; two by the Conference of Mayors; three by the Oakland City Council.

Marin, Sonoma, Solano, and Napa (each): One by the Board of Supervisors; one by the Conference of Mayors.

^{6/} The General Assembly would remain as now constituted: "a bicameral body meeting in a single room," with all cities having equal votes on the municipal side and all counties having equal votes on the county side.

^{7/} The President and Vice President would not have to be councilmen or supervisors, and would be ex officio voting members of the Executive Committee.

TABLE 1

VOTE DISTRIBUTION: 34-MEMBER EXECUTIVE COMMITTEE
(ABAG Proposal)

County Area	: Per cent of :	Vote		Vote	
	: Bay Area :	Distribution <u>2/</u> :		Distribution <u>3/</u>	
	: Population <u>1/</u> :	Votes:	% of Total:	Votes :	% of Total
San Francisco	17.5	5	14.7	5	15.6
San Mateo	12.3	3	8.8	3	9.4
Santa Clara	20.6	6	17.6	6	18.8
Alameda	23.9	7	20.6	7	21.9
Contra Costa	11.8	3	8.8	3	9.4
Marin	4.4	2	5.9	2	6.2
Sonoma	4.1	2	5.9	2	6.2
Solano	3.7	2	5.9	2	6.2
Napa	1.7	2	5.9	2	6.2
President and Vice President	--	2	5.9	--	--
	100.0	34	100.0	32	99.9

1/ Based upon published figures as used by the State for subvention purposes as of January 1966.

2/ This vote distribution includes the President and Vice President, but leaves their percentage unallocated because of uncertainty as to which counties they will come from.

3/ This distribution excludes the President and Vice President.

NOTE: The first three columns of Table 1 were taken from ABAG Goals and Organization Committee Report of the Executive Committee, February 7, 1967.

b. ABAG Members' Minority Proposals

A number of other methods of representation were suggested by Association members but were not accepted. Several are outlined below for illustrative purposes:

1. Choose city members of the Executive Committee on the basis of (1) nomination by petition of at least 15 per cent of the mayors and councilmen within each county, and (2) election by secret ballot of all mayors and councilmen in the county.

2. Create a governing body composed solely of city councilmen and county supervisors, but distributed among local governments strictly on the basis of population.

3. Create a governing body composed solely of directly elected representatives, distributed on the basis of population.

4. Create a governing body consisting partly of directly elected representatives and partly of city councilmen and county supervisors.

5. Modify the majority proposal in two ways: (1) Increase the Executive Committee to 39 members by adding one representative each from the counties of San Francisco, San Mateo, Santa Clara, Alameda and Contra Costa. (2) After two years, require one-half of the Executive Committee members to be directly elected by the voters.

c. "One Man, One Vote": The Principle of Equal Representation

"One man, one vote" is a term currently applied to the philosophy underlying recent decisions holding that courts can and must review any well-founded constitutional challenges to the apportionment of state legislative representation. A series of U. S. Supreme Court decisions,

most important of which were Baker v. Carr, 369 U.S. 186 (1962) and Reynolds v. Sims, 377 U.S. 533 (1964), established jurisdiction, held malapportionment in either house of a bicameral state legislature to be unconstitutional under the equal-protection clause of the 14th Amendment, and began outlining standards and mandating reapportionment schemes. In Silver v. Jordan, 241 F. Supp. 576 (1964) a federal district court held the California State Senate apportionment unconstitutional and gave the Legislature until July 1, 1965, to reapportion. The decision was affirmed by the U. S. Supreme Court in Jordan v. Silver, 381 U.S. 415 (1965). Acting under this mandate, the Legislature redrafted Senate district lines in time for the November, 1966, election.

d. Does the Constitutional Principle Apply to Metropolitan Organizations?

Until recently, subsequent federal and state court decisions appeared to be moving nearer and nearer to a universal and strict application of the requirement to all general-purpose local governments. California State Supreme Court decisions, for example, among them Griffin v. Board of Supervisors of Monterey County, 33 Cal. Rep. 101 (1963), and Miller v. Board of Supervisors of Santa Clara County, 63 Cal. 2d 343 (1965), have been applying the rule to county supervisorial districts. If this trend were to be continued, the requirement would probably be extended to bodies having a general or multipurpose legislative function, and that are chosen under a system of popular representation. Robert F. McKay, Professor of Law at New York University, appears to consider the existence of a legislative function to be the probable critical determinant of "one man, one vote" application:

. . . it is hard to believe that the equal-population principle . . . does not apply . . . to the legislative branches of the units of local government, the counties, cities, towns, and villages

. . . some of the local governing bodies may perform functions which are more realistically described as quasi-executive than as quasi-legislative. However, where the legislative function can be isolated from the nonlegislative, it would be very difficult indeed to argue that the equal protection clause of the fourteenth amendment does not apply to require substantial equality among whatever election districts there may be.

Again it must be emphasized that it is not easy to see how any of these units, county or city governing bodies and state constitutional conventions, can be considered immune from the fourteenth amendment command of equality whenever the legislative function is sufficiently implicated.^{8/}

McKay does not deal explicitly with multipurpose regional agencies, but if he is right in assuming that the existence of a legislative function is crucial, then the principle of representation proportional to population would very likely be held applicable to a multipurpose government such as that embodied in the ABAG proposal. As noted earlier, initially the regional organization would be responsible for regional planning and the implementation of three special plan elements: regional refuse disposal facility needs, regional parks and open space, and a regional airport system. In implementing the three plan elements, ABAG would be empowered by an extraordinary vote in the General Assembly to override the objections of the local governments concerned. Further, the ABAG preliminary regional plan outlines three additional plan elements dealing with the Bay shoreline, the transportation system, and a regional information system.

^{8/} Robert B. McKay, Reapportionment: The Law and Politics of Equal Representation (New York: Twentieth Century Fund, 1965), pp. 264, 266.

The agency would be empowered to levy taxes and issue general obligation bonds, revenue bonds, special assessment bonds and tax anticipation notes in the same manner as city and county governments. Future consideration would be given to the assumption of a wide range of additional regional activities. In short, the ABAG proposal would create a multipurpose agency with a legislative function.

Just how numerous do the functions of a multipurpose agency have to be to classify it as a "general-purpose" government? There is no easy answer to this question. Indeed, it may be the wrong question to employ in attempting to determine whether the "one man, one vote" requirement should apply. In the opinion of the authors, perhaps a more pertinent question would be: Are the breadth and scope of potential powers sufficiently affected with the public interest to require substantial compliance with the equal-population principle?

Certainly an agency which can levy regional taxes, issue general obligation and other bonds, prepare regional plans, and acquire land and other facilities over the objection of affected local governments in implementing important elements of the regional plans -- as ABAG proposes -- is affected with the region's public interest. Furthermore, the ABAG open space program would involve massive acquisitions in order to meet the needs of 1990.

One could argue that the citizenry would have a greater concern with the policies and programs of a regional agency possessing the suggested powers than, perhaps, with those of small municipalities exercising little more than modest caretaker functions. Yet the principle of representation proportional to population is almost certainly applicable to the latter.

Another commentator, addressing himself specifically to regional agencies, emphasizes the difficulties of predicting what will happen if and when the courts come to consider them:

Regional metropolitan governments rendering many services (metros) present the most difficult of the apportionment problems. When the special or regional district approaches a general function type of unit -- as in Dade County, Florida -- it seems reasonable and fair to apply equal vote standards. Control of the regional municipality may be at least as important to the voter as control of his local municipality. Yet existing metros, such as those of Toronto and Winnipeg [Canada], use varying combinations and formulas of representation by constituent units rather than population.

. . . the Supreme Court may well find it desirable to allow related [federal] forms in metros by accepting rough approximations to population standards.^{9/}

A third commentator also alludes to the political problem posed by the requirement of representation proportional to population in regional organizations:

. . . in both Canada and the United States . . . compromises have been found necessary because each constituent municipality . . . demands at least one vote on the governing board. The larger communities may voluntarily agree to this voting system in order to gain the advantages of consolidation. If a one man, one vote standard is demanded for elections to the 'metro' governing board, suburbs and towns may never agree to merge with cities, and the broader goal of effective metropolitan government may be frustrated.^{10/}

This is, however, a practical and political argument. It is not addressed either to the likelihood or propriety of the courts applying the equal-population principle to regional governments. The difficulty

^{9/} Jack B. Weinstein, "The Effects of the Federal Reapportionment Decisions on Counties and Other Forms of Municipal Government," Columbia Law Review 65: 21-54, January, 1965.

^{10/} "Notes: Reapportionment," Harvard Law Review 79: 1226-1287, April, 1966.

of obtaining agreement from smaller cities and counties to the creation of regional governments based upon the one man, one vote principle could just as well be interpreted as an argument that regional agencies should be created by direct legislative action, and not be dependent on referenda or subject, in effect, to local city or county vetoes.

The legal application of the principle of equality of representation is obviously a very complex matter, with new cases being decided all the time. For example, on May 22, 1967, the U. S. Supreme Court rendered opinions in several apportionment and districting cases which had the effect of drawing back, at least temporarily, from universal and strict application of the principle to all local governments.

Probably most to the point of the cases decided is Dusch v. Davis, 35 Law Week 4461. The court held valid a "Seven-Four" plan for election of the city council of the City of Virginia Beach, which had been consolidated with rural Princess Anne County in 1963, and which contains extensive rural territories. The city has an 11-member council; all are elected at large, but each of seven must reside in one of the seven boroughs into which the city-county is divided. The boroughs range in population from 733 to 29,048. Reversing a Court of Appeals decision, the Supreme Court found that the borough residence requirement did not invalidate the system, in view of the at-large vote whereby all are chosen to the council. The opinion quoted from the original district court opinion that had upheld the plan:

The principle [sic] and adequate reason for providing for the election of one councilman from each borough is to assure that there will be members of the City Council with some general knowledge of rural problems to the end that this heterogeneous city will be able to give due consideration to questions

presented throughout the entire area. . . . [t]he City of Virginia Beach demonstrates the compelling need, at least during an appreciable transition period, for knowledge of rural problems in handling the affairs of one of the largest areawide cities in the United States As the plan becomes effective, if it then operates to minimize or cancel out the voting strength of racial or political elements of the voting population, it will be time enough to consider whether the system still passes constitutional muster.
[Emphasis supplied]

The Supreme Court opinion continued:

The Seven-Four Plan seems to reflect a detente between urban and rural communities that may be important in resolving the complex problems of the modern megapolis in relation to the city, the suburbia, and the rural countryside.

This opinion obviously is intended, among other things, to allow some leaway for experimentation in dealing with problems of governmental organization and representation in metropolitan areas. Only through future experimentation and court review will we learn just how much flexibility will be permitted.

Regardless of the effect of court decisions, however, the principle of representation proportional to population is important in its own right and deserves consideration on its merits, when regional governmental proposals are being analyzed.

e. The Majority Proposal -- Departures from the Principle

The representation formula of the ABAG proposal departs from the principle of equal representation in a number of ways, some of which are presented here. Certain departures involve relative voting strength on the Executive Committee and General Assembly, respectively. Others relate to the appointing authorities, i.e., the counties and malapportioned supervisorial districts, on one hand, and the possibilities for minority control of the mayors' conferences, on the other.

(1) Departures involving the Executive Committee. The proposed formula for allocating Executive Committee seats among the county governments represents an attempt to strike a balance that is roughly proportional to population, while (a) insuring each county government a vote, and (b) avoiding a body that would be large and unwieldy. But the formula substantially over-represents the small counties' governments.

The end result is shown in Table 2, which compares the voting strength of county governments, as such. The four smallest counties are over-represented, Alameda and Santa Clara Counties are under-represented, and a close approximation to population is achieved in the case of Contra Costa, San Francisco and San Mateo Counties. A single vote gives Napa County 435 per cent and Solano 200 per cent of their proportionate shares. The Alameda and Santa Clara County governments, on the other hand, would receive only 62 and 72 per cent, respectively, of their proportionate shares of votes.

Compare the extreme cases presented by the governments of Alameda and Napa Counties. The former is given two votes and the latter one vote, although Napa contains less than one-fourteenth the population of Alameda County. Thus a Napa County voter, as represented on the Executive Committee through his county government, would in effect be given seven times the vote of an Alameda County voter, as similarly represented. Analogous but smaller disparities occur in the cases of other counties.

TABLE 2

COUNTY GOVERNMENTS' VOTING STRENGTH
COMPARED WITH POPULATION

County	: Per- : centage: of Bay : Area : Popu- : lation:	: Executive Committee Vote : Allocation:	:Percentage: Allocation: of Exec. : Committee Vote--ABAG: Proposal :	Vote Allocation as Percentage of Population Distribution
Alameda	23.9	2	14.8	62
Contra Costa	11.8	1.5 ^{1/}	11.1	94
Marin	4.4	1	7.4	168
Napa	1.7	1	7.4	435
San Francisco	17.5	2.5 ^{1/}	18.5	106
San Mateo	12.3	1.5 ^{1/}	11.1	90
Santa Clara	20.6	2	14.8	72
Solano	3.7	1	7.4	200
Sonoma	4.1	1	7.4	180
	100.0	13.5	99.9	

1/ Contra Costa, San Francisco and San Mateo Counties would alternate one delegate between the city and the county governments. These delegates are shown as 0.5 vote. Also, the President and Vice President are excluded from this table because there is no way of knowing from which counties either would come.

NOTE: This table compares the Executive Committee voting strength of county governments, as such. Thus it excludes the city seats allocated municipal governments in each county area.

Because the Alameda and Santa Clara County governments would be underrepresented on the Executive Committee, residents of their unincorporated areas would be partially disenfranchised. This is brought about by the move to give the cities of Oakland and San Jose additional members, to approximate the population distribution between those two central cities and the other municipalities in their respective counties.^{11/}

The small cities would have a disproportionate influence in the selection of Executive Committee members. In every county except San Francisco, the conference of mayors would choose city representatives. Further, the conferences of San Mateo and Contra Costa Counties would alternate with their respective boards of supervisors in selecting an additional Executive Committee member. Thus the mayors' conferences of the eight counties would choose between 10 and 12 of the 34-member Executive Committee.^{12/}

^{11/} In Alameda County, 13.7 per cent of the registered voters live in non-city areas, and would thus be represented on the Executive Committee by two county supervisors, whom they would have to "share" with the city residents. The latter, however, would also be represented by the five members of the Executive Committee from the cities in Alameda County. In mathematical terms, the 61,000 non-city voters could be said to have 0.274 of a vote in the Executive Committee (13.7 per cent of 2). The 444,000 city voters would have 6.726 votes, or 3.4 times their proportionate share.

Looking at it another way, the Alameda County government would be granted two votes on the Executive Committee. Because of the special provision giving Oakland three votes, the city governments within Alameda County would have a total of five votes. Similarly, Santa Clara County would have two votes, whereas its cities would have four.

^{12/} The report does not say so explicitly, but it is presumed that the two additional members, President and Vice President, would be elected by secret ballot of all supervisors, mayors and city councilmen within the region, as outlined in Exhibit C of Regional Home Rule and Government of the Bay Area, the report of the Goals and Organization Committee submitted September 29, 1966.

Each mayor has one vote in the mayors' conference. Thus the Mayor of Richmond, representing Contra Costa County's largest city with 82,000 population, would have no more voice than the Mayor of Hercules, representing a city of only 310 people. Or the Mayor of Berkeley, representing the second largest city in Alameda County ^{13/}with 120,000 population, would have no more voice than the Mayor of Emeryville, representing a city of 2,700 population. Or Sunnyvale, the second largest city in Santa Clara County ^{14/}with 85,000 population, would be equated with Alviso, whose population is 1,300. These three examples of disparities between the mayors' votes and the cities' comparative populations can be repeated in all the other counties except San Francisco, where there is no problem because there is only one mayor.

Another way of viewing the possibilities for inordinate small-city influence involves the "minimum controlling population" of cities represented on the mayors' conferences. This measure is based on the aggregate populations of the smallest cities in each county which constitute a potential voting majority. The possibilities for minority control are obvious (see Table 3). In no county does the minimum controlling percentage approach 50 per cent, one of the accepted measures of "equal" representation. For the most part, minorities of from one-tenth to

^{13/} Alameda County's largest city, Oakland (386,000 population) would be given three representatives on the Executive Committee, to be selected by the city council. Oakland would also participate in mayors' conference selections.

^{14/} Santa Clara County's largest city, San Jose (360,000 population) would be given two representatives on the Executive Committee, to be selected by the city council. Like Oakland, San Jose would also participate in mayors' conference selections.

one-quarter of total municipal population could control the conferences and determine their selections for Executive Committee seats.

TABLE 3

MAYORS' CONFERENCES: POSSIBILITIES FOR MINORITY CONTROL

County	: : Total : city : population : :	: : "Minimum : controlling : population" : : <u>1/</u>	: "Minimum con- : trolling popula- : tion" as per cent : of total popula- : tion of cities : in county
Alameda	942,000	101,000	10.7
Contra Costa	330,000	72,000	21.8
Marin	128,000	34,000	26.6
Napa	40,000	11,000	27.5
San Francisco	- - - - Not relevant - - - -		
San Mateo	466,000	102,000	21.9
Santa Clara	772,000	85,000	11.0
Solano	142,000	17,000	12.0
Sonoma	81,000	16,000	19.8

1/ Smallest aggregate population of cities having a potential voting majority in the mayors' conference.

NOTE: City and county population estimates employed throughout this report are based on the most recent information available from the Financial and Population Research Section, California State Department of Finance.

(2) Departures involving the General Assembly. All cities have equal voices in General Assembly voting, irrespective of their populations. The City of Oakland, for example, with 380,000 population, is equated with the City of Hercules, with 310 people. Also on the city side, San Francisco, with 740,000 has no more voice than Alviso, with its 1,300 residents. Similarly, all counties have an equal voice in the General Assembly's dual roll call voting. Alameda County, with more than 1,000,000 residents is equated with Napa County, which has a population of 76,000.

Unincorporated area residents are partially disenfranchised in the General Assembly. City residents are, in effect, represented twice in General Assembly voting. That is, they are "represented" by the city members when the city roll is called, as well as by the county members when the county roll is called. In contrast, residents of unincorporated communities have no representation on the city "side" of ABAG's two-house General Assembly.^{15/}

15/ The percentage of non-city voters ranges from 11.4 in Solano County to 51.7 in Sonoma County (see Table 4). Thus 51.7 per cent of Sonoma County's voters would be represented in the General Assembly by a single county member and would have no voice on the city side. But the remaining 48.3 per cent of the county's voters would be represented both on the county side by the single county member and on the city side by the eight city delegates. Thus a majority of the county's voters would be completely disenfranchised on the city side due to the "accident" of their location outside municipal boundaries. Analogous but smaller discrepancies and inequities can be found in all counties except San Francisco, which has no unincorporated territory.

TABLE 4

VOTERS IN CITIES AND UNINCORPORATED AREAS
NOVEMBER, 1966

County	: Registered voters:		Total	: Per cent of
	: in thousands :			: registered
	: in unin- :			: voters in
	: in :corporated:	: unincorpo-		
	: cities:	area :		: rated areas
Alameda	444	61	505	13.7
Contra Costa	147	93	240	38.7
Marin	60	29	89	32.5
Napa	20	16	36	44.4
San Francisco	372	0	372	0.0
San Mateo	221	32	253	12.6
Santa Clara	326	60	386	15.5
Solano	54	7	61	11.4
Sonoma	42	45	87	51.7
Nine-county total	1,686	343	2,029	16.9

A recent Michigan Supreme Court county apportionment case could, if applied in California, have great significance with respect to the under-representation of non-city voters in both the General Assembly and the Executive Committee.

. . . we may take the law to be that the Equality clause of the Fourteenth Amendment requires the States to render substantial equality between citizens except where there exist differences justifying the classification of citizens, in which event there must be equality within the

classes, and that the differences which may justify classification must be such as bear reasonable relation to permissible State objectives sought to be achieved by classification and not such as are merely arbitrary and capricious. Brouwer v. Bronkema, 141 N.W. 2d 98 (1966).

Obviously the "discrimination" against residents of unincorporated areas would be an unintentional side effect of the basic voting system proposed, plus the "accident" of residential location. But this emphasizes the difficulty of justifying the proposed "classification." Residents of unincorporated territory almost certainly have an interest in the region's problems and their solution equal to that of city dwellers. Areawide taxes levied equally on property in unincorporated areas and in cities would by definition place the same burden on all. Thus the basis for a classification justifying differential treatment of city and non-city residents is not apparent.

(3) Malapportionment of supervisorial districts. County governments are one of the two basic building blocks in ABAG's constituent-unit system of representation. Thus any departures from the principle of equal representation in electing county governments would affect the regional government as proposed by the Association. Consequently it is essential to examine the basis on which supervisorial districts are allocated in all the counties except San Francisco, which elects

all supervisors at large.^{16/} The measure of malapportionment employed is the percentage points by which the number of registered voters in the smallest and largest districts in each county depart from the countywide average (see Table 5).

Only Alameda County appears to be well-apportioned, with deviations from the average of -6 per cent and +6 per cent, respectively. All the other seven counties showed marked departures from the average, the greatest being -67 per cent in the case of Solano County's smallest district and +64 per cent in Sonoma County's largest district. Such discrepancies, until removed, suggest caution in employing the county as one of the basic units on which to erect a regional government for the Bay Area.

g. Could ABAG Comply With the Principle?

It obviously would be no simple task to bring ABAG into compliance with the principle of equal representation, should that prove necessary. Probably the easiest obstacle to surmount is the malapportionment of county supervisorial districts. In fact, it appears almost certain that either the courts or the State Legislature will require equitable districting of all counties in the near future.

^{16/} San Mateo County nominates its supervisors from districts, but they must be elected at large. Thus it can be argued that unequally apportioned districts in San Mateo County do not violate the equal-population principle, because of the at-large general election. As noted above, a recent U. S. Supreme Court ruling held constitutional an analogous plan under which a district or borough residency requirement was applied to seven members of an eleven-member council, all of whom are elected at-large. Dusch v. Davis, 35 Law Week 4461 (1967). This decision, however, seems to have been based upon certain factual considerations not present in San Mateo County.

TABLE 5

COUNTY SUPERVISORIAL DISTRICTS:
DIVERGENCE IN APPORTIONMENT ^{1/}

County and district number	:	Percentage deviation from countywide average
Alameda		
1st (smallest)		-6
4th (largest)		+6
Contra Costa		
5th (smallest)		-31
4th (largest)		+51
Marin		
5th (smallest)		-34
3rd (largest)		+30
Napa		
4th (smallest)		-38
5th (largest)		+21
San Mateo		
1st (smallest)		-28
4th (largest)		+26
Santa Clara		
3rd (smallest)		-15
4th (largest)		+30
Solano		
5th (smallest)		-67
1st (largest)		+43
Sonoma		
4th (smallest)		-47
3rd (largest)		+64

^{1/} Countywide average equals total number of registered voters divided by the number of supervisorial districts. Divergence from the average is a measure of the departure from "perfect apportionment." These figures are based on 1966 voter registration rather than population. Population would have been preferable, but reliable estimates are unavailable, whereas the Secretary of State has published firm figures on the voter registrations of all supervisorial districts at the time of the November, 1966, election.

Inequalities among the counties would not be so easily dealt with, because the redrafting of county boundaries is unlikely. Perhaps some of the smaller counties could be grouped together. The following four-way combination was recently suggested to a BATS study group for discussion purposes: (1) San Francisco and San Mateo, 1.3 million; (2) Contra Costa, Marin, Napa, Solano and Sonoma, 1.2 million; (3) Alameda, 1.1 million; and (4) Santa Clara, 1.0 million.^{17/} Similar groupings of cities could be devised, analagous to the "corridor" categories and weighted voting employed in choosing city representatives on the Southern California Rapid Transit District Board (see p. 119). Grouping cities not only would help minimize noncompliance with equal representation, but also would reduce the size of the General Assembly.^{18/}

Although complicated formulas would be required to bring ABAG into conformity with the "one man, one vote" principle, no doubt they could be devised, if needed. On the other hand, the courts have tended to take a rather simplistic view in applying the equal representation

^{17/} Suggested by John C. Beckett, study group chairman, in letter of April 4, 1967, directed to Richard M. Zettel, BATS Study Director.

^{18/} Weighted voting should be a last resort, however, and any such system should be designed with extreme caution. Careful study of apparently equitable systems shows that they may over-represent or disenfranchise, often quite drastically and in unexpected ways which superficial examination does not disclose: ". . . weighted voting does not allocate voting power among legislators in proportion to the population each represents because voting power is not proportional to the number of votes a legislator may cast." [Emphasis in original] Also: "The mathematical accuracy which proponents of weighted voting have claimed . . . is illusory." See John F. Banzhaf III, "Weighted Voting Doesn't Work: A Mathematical Analysis," Rutgers Law Review 19: 317-345 (1965).

principle. Thus they may look with disfavor on agencies established under complicated formulas of indirect representation. At the very least, the Michigan case suggests great care in setting up a "mixed" legislative body containing both directly and indirectly elected members. Still, if the State Legislature should establish a mixed regional legislature, stating clearly that it is intended to be a provisional and experimental attempt to deal with unique metropolitan organizational problems, the courts might well leave the agency undisturbed, at least for a trial or transitional period.

Method of Selection: Further Comments

The indirect method of choosing the governing body under the ABAG proposal merits further comment on its necessity and advisability, its possible future legal status, the role and performance of the mayors' conferences in the selections, and the partisan effects of a representational system based on "nonpartisan" local governments.

1. Should Multipurpose Legislative Bodies be Directly Elected?

Appointment and other methods of indirect election are widely employed to choose the members of special-purpose agencies and authorities. Such a system of "representation" is tailored to the specific circumstances confronted, as well as to the limited purposes and projects to be accomplished. Furthermore, indirect election has been justified (1) as a means of avoiding the known drawbacks of directly electing most special district boards, (2) as a method of encouraging close cooperation between the special district and local governments in the area, (3) as a device for winning local acceptance of regional programs that

might otherwise be opposed, and (4) as a transitional stage in the development of a more nearly representative regional government.

On the other hand, direct election is the accepted method of choosing the legislative bodies of general-purpose governments -- local, state, and national. Can the principle of indirect election safely be applied in proposals such as ABAG's, that might soon either become general-purpose governments, or at least be assigned many important functions and decisions crucial to the region's future? This question can be argued in terms of good public policy, as well as more narrowly on the basis of future tests of constitutionality. The Michigan case raised the latter issue by implication, when it suggested that indirect election was not "equal" to direct election. The issue obviously cannot be settled here. But there may be grounds for litigation testing the constitutionality of representational systems choosing regional legislatures by indirect election.

2. The Role of the Mayors' Conference

The mayors' conferences (city selection committees) deserve careful attention because of the appointive role they would play under the ABAG proposal in selecting a majority of the city representatives on the Executive Committee.

a. Reasons for Creation

The city selection committees were first legally established in 1955 under the Bay Area Air Pollution Control District Act. They were created for three basic reasons: first, it was recognized that the air pollution problem required creation of a new regional agency, and that the political realities of the time meant that it would have to

be another single-purpose special district. Second, the region's leaders were reluctant to establish a district with a directly elected governing board because of their belief that the low political visibility of single-purpose districts, plus voter unawareness, make direct election a highly questionable means of holding such regional agencies accountable. Third, the cities of the region preferred to have a voice on the district board, rather than follow the arrangement in the Los Angeles area, where air pollution control was a function of county government alone.

b. The "Bay Area Pattern"

The "Bay Area pattern" of constituent-unit representation was devised to meet the needs and conditions outlined above. The method of selection on the county side was a foregone conclusion from the start: each county board of supervisors would select one of its own members. It was agreed that city governments should receive representation equal to that of the county governments, but the municipalities far outnumbered the counties, thus obviously necessitating some kind of adjustment. After deliberation, it was decided that one city representative per county should be chosen by the county's conferences of mayors, building on the informal discussion groups that had been organized in Alameda and Contra Costa counties a few years earlier.

Thus the "Bay Area pattern" was formed. It was employed subsequently in connection with the San Francisco Bay Area Rapid Transit District, the Executive Committee of the Association of Bay Area Governments, the local agency formation commissions, the West Bay Rapid Transit Authority (San Mateo County), and the Marin County Transit District. It is

employed to select part of the membership of the Bay Area Transportation Study Commission, and the San Francisco Bay Conservation and Development Commission.

c. Advantages

Experience with the "Bay Area pattern" suggests that it has proven a useful and constructive political invention, at least on an interim basis. It appears to have had modest success in improving relationships among the districts. It has established lines of communication -- although sometimes tenuous -- between several regional single-purpose districts and local government. It has given a common or parallel structure to the new regional districts, and has made it possible to avoid setting up more directly elected single-purpose district boards.

d. Drawbacks: Mayors' Conference Weaknesses

On the other hand, an examination of the mayors' conferences suggests that they may leave something to be desired as the possible appointing authority of a significant number of the regional legislators who may eventually run a multipurpose metropolitan government.

Perhaps the primary problem is the lack of cohesion of the mayors' conferences. Unlike the county boards of supervisors -- their counterpart appointive authority on the county side -- the mayors' conferences are not legislative bodies in their own right. They are informal social-discussion groups normally meeting no more than once a month to review common city problems within the county. Their "life histories" show that they may become active in periods when the cities are significantly concerned about mutual problems, these often being their relationship with the county government in such matters as the sales

tax distribution or the division of county highway funds. But at other times the conferences may be hard put to find something to do.^{19/}

A related problem, and perhaps the chief cause of the lack of cohesion or sense of purpose, is the frequent change in membership. Many cities whose mayors are chosen by the council rotate the post every year, and much of a mayors' conference membership changes annually. Unquestionably this feature has made it difficult to develop continuity and leadership.^{20/} In practice, it has forced the conferences to rely heavily on the leadership of those few mayors who are directly elected to their posts, or who by custom are retained by their councils for a number of years.

A more subjective matter -- one which obviously could be debated -- relates to the attitudes of some of the mayors as they affect the tone of the conferences. Comments from field interviews: "Cities are 'too provincial -- each city is concerned too much with its own utility, not with urban government generally.'" Or: "The [. . .] County Conference of Mayors is very, very weak. It is primarily social, with no formality of organization." Again: "What is wrong is that it is treated as a

^{19/} The following comments from field notes taken during interviews with mayors and city managers may be helpful. One respondent commented that, while the conference "promoted inter-city communication and relations . . . it does have a problem in justifying its existence." Or: "It permits an exchange of ideas . . . [but] there's a lot of criticism of the conference. Sometimes it does go for months dead on its . . . [feet]."

^{20/} These comments are illustrative of the problem: "The trouble is that when you switch mayors annually, it takes five or six meetings to find out what is going on." "The mayor has just developed a good rapport when it is time for him to be turned out."

social affair." ". . . there is a valid point of criticism in asserting that the conferences over-emphasize the social aspects."

Turning specifically to criticisms relating to the conferences' appointive function in choosing regional representatives, one finds such comments as: "Elections . . . are usually routine." The evidence suggests that, at least until recently, appointments have been made rather casually, and on the basis of limited consideration of the candidates and their abilities.^{21/}

e. Possible Changes

This rather negative view of the city selection committees should be qualified a bit. First, if the appointive role of the mayors' conferences takes on added significance, as it surely would if the ABAG proposal were enacted, the appointments would undoubtedly be given a great deal more careful thought than in the past. Second, a change in some cities' practice of rotating mayors frequently would almost certainly give the conferences much greater stability and continuity of leadership. Third, the same result could be achieved by changing the composition of the city selection committee and providing for a long-term appointment by each council to that body. Fourth, modification of the ABAG proposal to provide for weighted voting, or for

^{21/} These comments are relevant: "[. . .] was selected because he expressed an interest and asked for the nomination." Or: "He had the time and they had known him in the conference." Or: "One of the real weaknesses is that a candidate is nominated and elected the same evening . . . unless you're contacted by letter or phone you don't know how you're voting. Too often, nominations are opened, the names presented, and a move made the nominations be closed. There is no time to consider the concrete qualifications of the names." Or: "One election took only three minutes."

groupings of smaller cities for voting purposes, would help reduce the disproportionate voting strength of the small cities. 22,23/ These changes would alleviate -- but not eliminate -- some of the drawbacks outlined above. Until these or other changes are made, however, the ABAG proposal will rest on rather weak organizational underpinnings in the form of the mayors' conferences.

3. The Partisan Effects of Selection by "Nonpartisan" Local Government

All proposals to create a regional government would establish a new entity "halfway" between traditional local governments and the state government. California state government is deliberately and distinctly partisan. California local government is legally nonpartisan. In which tradition should a new regional government fall? What is the impact of legal nonpartisanship on city and county governments -- the constituent-units of the proposed regional government? On ABAG? These questions

22/ The Southern California Rapid Transit District Act of 1964 attempted to meet the third and fourth objection. The law makes long-term appointment possible in the case of a special city selection committee which chooses several members of the district governing board. Also, each selection committee member's vote is weighted according to the assessed valuation of the city he represents. See p. 119.

23/ The disproportionate role of the smaller cities provides a minor irony. Voting in the mayors' conferences and the ABAG General Assembly favors those areas and communities that have fractionated their governments into little municipalities, some of which may be inadequate, and many of which have created unnecessary competition for tax base. Thus a prize -- additional votes in the mayors' conference and the General Assembly -- is given to those whom some might call shortsighted, while communities with more foresight or better luck, who organized themselves in a superior fashion, i.e., into larger cities possessing greater competence to deal with local problems, are penalized in the councils of the mayors' conferences and the General Assembly. The unintended but real result is to give premiums for parochialism and demerits for the exercise of good judgment.

merit discussion in this analysis of the ABAG regional government proposal.

More than fifty years ago, city, county, and school district elections were made legally nonpartisan,^{24/} following the leads of several other states, in the Progressive effort of Hiram Johnson to end domination of the party machinery by the Southern Pacific Railroad. The reform was also related to revelations of the connection between city party machines and the state's political structure brought out by San Francisco Boss Abe Ruef's maneuvering at the Republican State Convention of 1906. The bad reputation of local party activity and machine control of city halls, plus proven corruption, strengthened the hand of the Progressives in their efforts to clean up. Introduction of nonpartisanship at the local level was a part of the campaign.^{25/}

As noted in Chapter III, however, local nonpartisanship in California has been debated on several grounds. First, considering the radical improvement in the character and quality of California's local government, does nonpartisanship still serve a useful purpose? Second, given the increasing involvement of local government in some of the most fundamental social issues of our culture, would the legal introduction of partisanship at the local level be a constructive act, thus recognizing the fact that local governments are no longer -- if indeed they

^{24/} California Elections Code, Sec. 41.

^{25/} In 1915 the Legislature attempted to extend the principle to all state offices, but this effort suffered a resounding defeat of 58 percent to 42 percent at a 1916 referendum.

ever were -- limited to such reputedly nonpartisan matters as paving sidewalks and pruning street trees? Third, there is increasing evidence of covert and sometimes overt activity in local elections by politically oriented groups, including party organizations. Fourth, many observers believe that nonpartisan local government is neither nonpartisan nor politically neutral, but that more often than not the system operates to the substantial advantage of candidates who are Republican by party registration. No effort will be made here to resolve all these issues. Some are matters of opinion and value judgment, and perhaps cannot be decided on strictly objective grounds.^{26/}

Two things will be attempted here. First, attention will be called to a remarkable, imaginative and relevant document produced by the Republican Policy Committee of the United States Senate. Second, because the data are readily available, an effort will be made to determine whether or not there is anything in the allegation that nonpartisanship favors candidates of Republican party registration.

a. A Case for Partisan Involvement in Urban Problems

A striking and persuasive set of arguments for partisan involvement in the problems besetting local government and the metropolitan regions recently emanated from Republican sources. This policy is being urged as part of an effort to take advantage of "the decade ahead [which] offers Republicans their first opportunity in nearly

^{26/} The history and debate over nonpartisanship are thoroughly covered in Eugene C. Lee, The Politics of Nonpartisanship: A Study of California City Elections (Berkeley: University of California Press, 1960).

forty years to establish themselves once again as the majority party in the United States."^{27/} The report continues:

. . . these problems--education, environmental health, transportation--will bear in upon us with increasing weight over the next decade. Whichever party offers the most rational solution may well win the respect and long-term allegiance of this new electorate. [The new electorate referred to comprises a power group described by Peter Drucker as ". . . a professional, technical, and managerial middle class--very young, affluent, used to great job security and highly educated."]^{28/}

Later the report refers even more explicitly to both the urgency and the political relevance of the kinds of problems with which local government in the Bay Area, the Association of Bay Area Governments, the San Francisco Bay Conservation and Development Commission, the Bay Area Transportation Study Commission and other groups are trying to deal:

Planning, zoning, urban renewal, and large-scale expressway construction have become important forces in America in only the last 10 years or so. The metropolitan issues will not disappear, they will only intensify. If they look impossibly complicated today, and we fail to do something about them, they will look far worse next year . . .

If a political party wishes to stay in the game of politics, it must tackle the public problems affecting the most persons, and those problems . . . are centered in the American metropolis.^{29/}

If this is all true, it suggests that the time may be near for re-thinking the roles of partisan politics at both local and regional levels.

^{27/} U. S. Senate. Republican Policy Committee, Where the Votes Are: A Profile of America in the Mid-1960's . . . (89th Congress, 2d Session, Document No. 106, 1966), p. 1.

^{28/} Ibid., p. 3.

^{29/} Ibid., p. 13.

b. Is Local Government Politically Neutral?

For discussion, assume that the legal nonpartisan status of city and county government also means that the processes whereby local elected officials are recruited and selected are completely neutralized and sealed off from partisan political influences. Or to put it another way, assume that partisanship and factors associated with the individual's partisan registration are statistically neutral and have no influence on or correlation with the outcome of local elections. What would be the result if these assumptions were well-founded? The partisan composition of elected councils and boards of supervisors would approximate that of the city or county from which they were chosen. Thus the hypothesis can be tested by comparing the partisan registrations of county supervisors and city councilmen with those of the populations they serve.^{30/}

(1) County boards and partisan registration. In eight of the nine Bay Area counties the partisan registration of the supervisors is significantly different from that of their electorates (see Table 11). In five of the eight, the differences -- which range from 14 to 49 percentage points -- favor the Republicans. In one striking case the reverse is true: a combination of at-large elections in a county that is 64 per cent Democratic, active participation in elections by politically oriented groups, and the filling of vacancies by mayor's appointments, accounts for San Francisco's county supervisors being 100 per cent

^{30/} The analysis on which this discussion is based appears in full in the Appendix. In the interest of brevity, some of the detail is omitted from this textual discussion. Information on the partisan registration of voters was taken from: California. Secretary of State, Report of Registration for Nov. 8, 1966, Gen. Election (1966). Information on the registration of supervisors and councilmen holding office in 1966 was obtained from the respective county clerks.

Democratic. The registration of supervisors in Contra Costa and Marin counties also favors the Democrats, but a good deal more modestly.

To describe the phenomenon somewhat differently, Solano County, which shows the greatest divergence, has the highest Democratic registration of the nine counties, 69 per cent. But the Solano board is made up of four Republicans and one Democrat, and thus is only 20 per cent Democratic. Other counties whose divergence strongly favors the Republicans are Napa (-36 per cent), Santa Clara (-33 per cent), and Sonoma (-34 per cent).^{31/}

In another approach to the problem, the supervisorial districts of eight counties were arrayed from lowest to highest in terms of Democratic registration (see Table 12). Republicans retain a distinct advantage in the first three quartiles: the districts elect supervisors who are 70 per cent Republican. Only in the fourth quartile, including districts above 63.4 per cent Democratic, do Democratic supervisors predominate (70 per cent).

These facts tell us a number of things. First, there is a relationship between the partisan affiliation of voters and of the supervisors they elect. Second, "nonpartisan" county government is not politically neutral. The Republicans have a pronounced advantage which is not overcome until Democratic registrations of approximately 63 per cent and above are reached.

^{31/} Here and elsewhere minus signs (-) designate divergences which favor Republicans and plus signs (+) designate divergences which favor Democrats.

This Democratic "handicap" is translated into an even larger Republican advantage in the partisan composition of the area's supervisors. Although their combined electorate is 58 per cent Democratic, the eight counties are governed by 40 supervisors who are 38 per cent Democratic in registration.

(2) Cities and partisan registration. Measures such as those applied to county government were also used to test the political neutrality of city government. For example, an analogous array of cities was prepared, ranging from Hillsborough, the city with the lowest Democratic registration (21 per cent) to Pittsburg, which has the highest (82 per cent) -- see Table 13.

The results are strikingly similar to those obtained from the array of supervisorial districts. Republican councilmen predominate in the first three quartiles. And to an even greater extent cities controlled by councils whose members are Republican by registration dominate the first three quartiles. Only in the fourth quartile -- composed of cities with Democratic voter registrations ranging from 65.0 to 81.7 and averaging 71.2 per cent -- does one find a majority of Democratic-controlled councils. While there is no definite "breaking point," councils with a majority of Democrats predominate when the Democratic voter registration of the city exceeds 67 per cent. Below that level one finds a preponderance of councils with Republican majorities.

The end result: an eight-county municipal electorate that is 58 per cent Democratic selects a "delegation" of city councilmen who are 45 per cent Democratic. Further, because the small cities tend to be Republican, 60 per cent of the city councils in the region are

controlled by Republican majorities. Whatever the value of these attempts to quantify the differentials, one clear fact emerges: City election procedures favor Republicans more than Democrats in the selection of councilmen.

In still other ways the cities reveal differences between the partisan flavor of councils and electorate, analogous to those shown above for counties (see Table 14). In seven of the eight counties the city councilmen were less Democratic than the registered voters within incorporated areas, the differences ranging from four to 20 percentage points. In Solano County, for example, where 70 per cent of the voters were registered Democrats, only 50 per cent of the city councilmen were so registered.^{32/}

c. Local Government is not Politically Neutral

If influences related to partisanship were neutral in a statistical sense, city councilmen and county supervisors would approximate their jurisdiction's voters in partisan registration. A normal distribution -- assuming complete neutrality of the partisan registration factor -- would see approximately as many local councils and boards exceeding their electorates in Democratic registration as falling below.

But the evidence shows that local government as a representational mechanism is not politically neutral. It confers a distinct -- although

^{32/} These measures of the spread between the partisan registration of a county's supervisors or city councilmen and that of its electorate are revealing, but do not take into account differences in size of the governments involved. Weighted measures were prepared to correct for population differences (see Tables 15, 16, 17, and accompanying discussion, Appendix). Findings based on the weighted measures do not, however, depart markedly from those based on unweighted measures.

not universal -- advantage on persons of Republican registration.^{33/}

The implications of this fact should be given consideration in reviewing various methods of choosing policy makers to govern a new regional agency.

d. Partisanship and ABAG

The "Republican advantage" in local legislative bodies also influences the composition of the Association of Bay Area Governments (see Tables 18 and 19). For example, the eight official representatives of county governments currently members of the ABAG Executive Committee consist of six Republicans and two Democrats, i.e., 25 per cent Democratic.^{34/} The city representatives are composed of eight Republicans and five Democrats, i.e., 38 per cent Democratic.

Because the Executive Committee votes as a single body, and not by the General Assembly's dual roll call, the overall percentages are more meaningful than the separate city and county figures. The 21 Executive Committee members are made up of 14 Republicans and seven Democrats, i.e., 33 per cent Democratic. That is the de facto partisan composition of the important steering group developing policies for a regional population that is 58 per cent Democratic in composition.

^{33/} Although there has been some change over the years, this phenomenon appears to have been a long-term characteristic of local government in the Bay Area, and presumably throughout California. Information on Bay Area cities for 1955 shows that their councils tended to have a lower percentage of Democratic composition than their electorates. The amount of the (negative) deviation in 1955 for all cities approximated 18 percentage points, as compared with the 1966 (negative) deviation of 13 per cent. Thus the overall discrepancy in partisan composition between councils and electorates has been reduced during the 11-year period, but still remains substantial.

^{34/} These figures are based on the Association membership list prepared for the December 16, 1966, meeting of the General Assembly.

The General Assembly's official county representatives are 75 per cent Republican and 25 per cent Democratic. On the city side, the figures are 55 per cent Republican and 45 per cent Democratic.^{35/} But, because of the "two-house" voting requirements in the General Assembly, an effective veto in the General Assembly can be wielded by a county representation that is only 25 per cent Democratic, in a region whose electorate is 58 per cent Democratic.

A closer analysis of the partisan composition of the ABAG General Assembly and Executive Committee, and a comparison with the partisan composition of the supervisors and councilmen they represent, is very revealing (see Tables 20 and 21). Thus the Association's membership rolls suggest the existence of an even greater "Republican advantage" than is true of local governments in the Bay Area. In all except two counties, the partisan registration of the supervisor member of the Executive Committee and General Assembly is strikingly different from that of the supervisors they represent, and the difference favors the Republicans.^{36/} Although there is much less contrast in the case of

^{35/} The following is worth noting here. A combination of equal voting in the General Assembly by all cities, regardless of size, and a tendency toward Republican control of the councils of many small cities, could combine to produce a peculiar potential for minority control of the Assembly. The 46 smallest cities in the Bay Area -- which contain only about 7.5 per cent of the total city population (San Francisco included as a city)-- would have theoretical voting control over the reorganized General Assembly. The councils of nearly two-thirds of these 46 cities contain Republican majorities.

^{36/} Admittedly the percentage deviation in the case of one-man delegations is, in part, a statistical fiction. Excluding those persons who decline to state or belong to minority parties, a one-man delegation must be, by definition, either 100 per cent Republican or 100 per cent Democratic, and will have to differ from any constituency except one that is also composed 100 per cent of one party. Despite its artificiality, however, the difference is a useful indicator for showing which party tends to be favored.

city members of the General Assembly, they are, on balance, somewhat more Republican than the councilmen in the counties they represent. But again, city members of the Executive Committee are substantially more Republican than the city councilmen in five of the nine counties; in only one county, Sonoma, does the difference favor Democrats significantly. Thus the partisan deviation of local government appears to be both perpetuated and compounded in the leadership of the Association of Bay Area Governments.

Independence of View and Voting by Regional Legislators

1. Is Independence Desirable?

Complete independence is neither possible nor desirable, otherwise the representative represents only himself. On the other hand, some degree of independence is necessary if the legislator is to weigh the conflicting interests fairly and reach an informed judgment on the best policy for the community.

Furthermore, a degree of independence is essential to the legislative process, which requires the exchange of ideas and accommodation of conflicting aims. The frequent practice of "instructed voting" on the part of ABAG delegates provides a case in point. When delegates come to the meetings with precise directions from their boards of supervisors, city councils or conferences of mayors, on how to vote on specific questions, they are precluded from participating in a true legislative process.

A directly elected legislature is composed of members who have been chosen to represent a constituency and to vote according to their own judgment on issues brought before the legislature. They are not

"instructed" by the electorate how to vote on specific issues, and, in fact, cannot be. They may use such means as they choose to evaluate the state of opinion among their constituents, but they remain free to deliberate, negotiate with fellow legislators, vote on amendments and modified versions of proposals, and so forth, without having to report back to a parent body for new instructions. There may be an appropriate role for instructed voting, but it is not in a true legislature. The inflexibility and lack of "give-and-take" introduced by instructed voting would impair the legislative process as we know it.

2. Will It be Possible Under the ABAG Proposal?

Members of the General Assembly and Executive Committee of the Association of Bay Area Governments are vulnerable to: (1) local community pressures and (2) replacement by their boards of supervisors or mayors' conferences at any time. ABAG members are chosen by the electorate in their individual cities and counties. A position taken by a city representative sitting on the Executive Committee, for example, could offend his mayors' conference, which could then replace him forthwith, or incur the displeasure of the voters in his city, in which case he might be subject to recall or defeat at the next regularly scheduled municipal election. Loss of a member's seat in his city council or county board of supervisors would also remove him from ABAG automatically. These vulnerabilities to immediate local pressures might make it risky for an ABAG member to vote his convictions on the proper balance between regional and local concerns when the most difficult issues are under consideration.

Conclusions

The ABAG proposal is the outcome of a remarkable opinion shift and process of self-education conducted by city and county officials during the preceding six years or more. The governmental proposal and ABAG's preliminary plan, taken together, are a significant expression of local awareness of the area's basic regionalism and of the need to attack a number of large-scale problems on a unified, nine-county basis.

On the other hand, the ABAG governmental proposal clearly bears the imprint of its source: the city and county governments of the Bay Area. This is as it should be. Local government is one of a series of mechanisms through which opinion is expressed, leadership developed, and policies formulated. In their work on the ABAG proposal, local governments in the Bay Area are playing their roles in such policy development.

But there are other actors in the regional drama, each of whom can be expected to play still other roles and espouse other views. These include, but are not limited to the San Francisco Bay Conservation and Development Commission, the Bay Area Transportation Study Commission, the area's Senate and Assembly delegations to Sacramento, and organized groups such as labor, industry, conservationists, the Bay Area Council, the League of Women Voters, and so forth. For that matter, the individual local governments can be expected to express different and often conflicting opinions on the future of the Bay Area, and have done so in recent ABAG debates.

Obviously, there are many ways -- and combinations of ways -- to "represent" the Bay Area public and to develop leadership for and from it. Each will have its own advantages and drawbacks. This chapter has

attempted a critical analysis of aspects of the current ABAG proposal, viewed in this light. For added perspective, therefore, it is now appropriate to present a brief review of another method of representation and leadership development: direct election.

CHAPTER VII. DIRECT ELECTION: TWO POSSIBILITIES

In addition to the constituent-unit principle of representation embodied in the ABAG proposal, several other methods of choosing some or all of the members of a regional legislative body have been discussed in the Bay Area.

One suggestion is that the state Senators and Assemblymen elected from the Bay Area could also serve as the regional legislature. It seems obvious, however, that the pressure of state legislative business, especially with the new annual general sessions, would render any such arrangement totally out of the question. Furthermore, the state's voters and taxpayers can justifiably expect the legislators to concentrate on state matters, and not let themselves be diverted by direct and permanent involvement in a regional legislative situation.

Accordingly, we must examine other methods of constituting a regional elected legislature. Many varieties and combinations of methods are conceivable, of course, but this chapter is limited to two possible sets of districts for direct election of Bay Area regional legislators -- those sets already being used for election of Assemblymen and of state Senators.

Election from Assembly Districts

The area covered by 18 of the state's Assembly districts coincides almost, but not quite, with the area of the nine counties (see Map 1). With a minor shift, therefore, the entire nine-county Bay Area would be coterminous with the area covered by 18 Assembly districts.

The minor "problem area" is the northern portion of Sonoma County, containing 51,342 of the county's 87,023 registered voters, which is included in the 2nd Assembly District, along with Mendocino County and part of Humboldt County. For purposes of Bay Area electoral requirements, this discrepancy could be corrected by either of two adjustments (see Table 6). The northern portion of Sonoma County could be attached either (1) to the area comprising the 7th District (containing the remainder of Sonoma and all of Marin County) or (2) to the area of the 5th Assembly District (Napa and Solano Counties).

The first alternative has the advantage of keeping Sonoma County intact as an electoral district, but would create a very large voting jurisdiction, containing 176,000 registered voters as compared with 139,000 in the Bay Area's largest Assembly district, the 22nd (see Table 7). The second alternative would create an electoral district with 147,000 registered voters, admittedly large, but not a great deal larger than the 22nd District. The percentage deviation from the Bay Area average for Assembly districts is shown in Table 6 and Table 7.

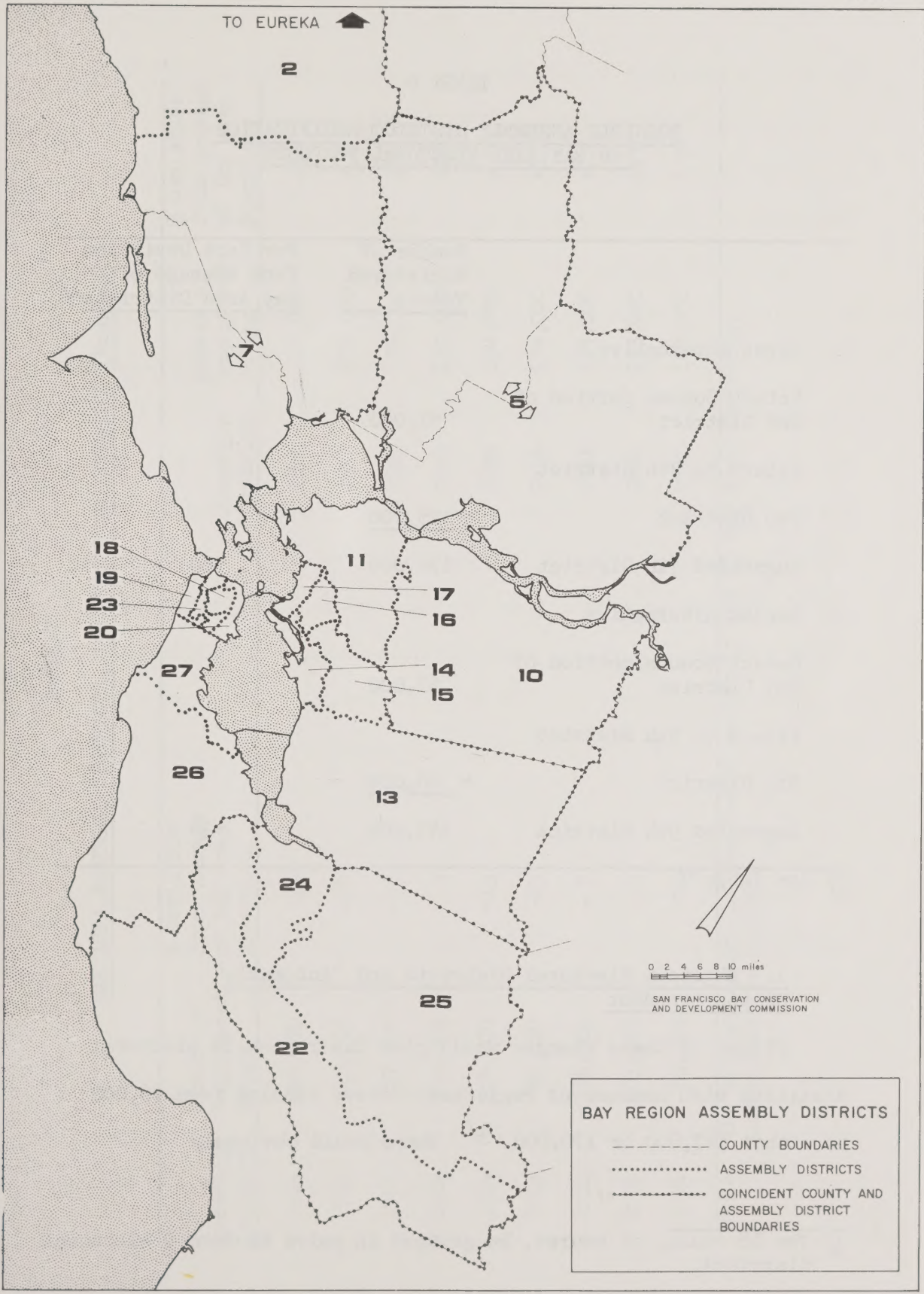


TABLE 6

POSSIBLE ASSEMBLY DISTRICT MODIFICATION
FOR BAY AREA ELECTORAL PURPOSES

	<u>Number of Registered Voters</u>	<u>Per Cent Deviation from Average of Bay Area Districts</u> ^{1/}
1. First Alternative		
Detach Sonoma portion of 2nd District	51,000	
Attach to 7th District		
7th District	+ <u>125,000</u>	
Augmented 7th District	176,000	+60
2. Second Alternative		
Detach Sonoma portion of 2nd District	51,000	
Attach to 5th District		
5th District	+ <u>96,000</u>	
Augmented 5th District	147,000	+34
^{1/} See Table 7		

1. Eighteen Electoral Districts and "Automatic"
Reapportionment

Either of these changes would give the region 18 electoral districts with numbers of registered voters ranging from 76,000 to either 147,000 or 176,000. ^{1/} There would obviously

^{1/} The 18 could, of course, be grouped in pairs to form 9 electoral districts.

TABLE 7

BAY AREA ASSEMBLY DISTRICTS, 1966 VOTER REGISTRATION (Rounded)

Assembly District	Number of Registered Voters	% Deviation from Average of Bay Area Districts	Assembly District	Number of Registered Voters	% Deviation from Average of Bay Area Districts
5th	97,000	-12	18th	89,000	-19
7th	125,000	+14	19th	103,000	- 6
10th	127,000	+15	20th	76,000	-31
11th	113,000	+ 3	22nd	139,000	+26
13th	124,000	+13	23rd	104,000	- 5
14th	85,000	-23	24th	124,000	+13
15th	105,000	- 5	25th	123,000	+12
16th	103,000	- 6	26th	133,000	+21
17th	88,000	-20	27th	120,000	+ 9

Note: The average number of registered voters in the 18 Bay Area districts, unmodified, is 110,000.

be some question as to whether such an array would meet the equal-population requirement. Presumably, however, if the Assembly districts as now apportioned do meet it, regional electoral districts based on them would also.

Such an arrangement would have both advantages and hazards with respect to future redrawing of Assembly district boundaries. The advantage is that no special arrangement would need to be made for reapportionment; electoral districts based on Assembly districts would be periodically reapportioned "automatically," whenever Assembly district boundaries were re-drawn. On the other hand, however, the areas covered by future Assembly districts might require greater adjustments than that involving northern Sonoma County in order to make the electoral districts coincide with the nine-county area.

In any event, assuming that an 18-member body is approximately the right size, there are advantages to using existing electoral districts because "they are there." Later, after the regional body is operative, the map can be re-drawn by any appropriate agency on the basis of experience and of the area's representation needs.

2. The Implications of Using Assembly Districts

If Assembly districts were employed for the election of regional legislators, the resulting electoral process would resemble Assembly elections. The resemblance would be striking if political partisanship were introduced into the campaigns on either

a formal or informal basis. At this writing, the formal introduction of partisanship appears unlikely in view of the prevailing nonpartisan ideology at the local level. Recent developments in a number of Bay Area local governments suggest, however, that partisan influences can be expected to affect many of the regional elections, even if they remain legally nonpartisan. Under these circumstances, incumbent state legislators may prefer that regional legislators not be elected from districts identical (or nearly identical) to their own.

In any event, the results of the 1966 Assembly election should be analyzed to determine some possible implications of using Assembly districts (see Table 8). Twelve of the 18 Assemblymen elected were Democrats and six were Republicans. Thus the Bay Area, with a 58.3 per cent Democratic registration, managed to choose an Assembly delegation that is 66.6 per cent Democratic despite (1) the statewide Republican trend of 1966, and (2) the well-known difficulty Democrats have in translating voter registration majorities into equivalent electoral majorities at the polls.

How can this result be explained? No doubt many factors were at work, but some of the most likely possibilities are presented here. First, of course, the "incumbency factor" helped. The Bay Area's 1964-66 Assembly delegation was made up of 13 Democrats and five Republicans. Eight of the Democrats and five of the Republicans elected in November, 1966, were incumbent Assemblymen.

TABLE 8

1966 CALIFORNIA ASSEMBLY ELECTION RESULTS: SAN FRANCISCO BAY AREA

Republicans				Democrats			
District : Regis. % :				District : Regis. % :			
Number : Democratic:	Name	: Residence		Number : Democratic:	Name	: Residence	
7	48.7	Bagley	San Rafael	5	64.3	Dunlap	North Napa
10	56.5	Dent	Concord	11	59.6	Knox	Richmond
16	49.3	Mulford	Piedmont	13	62.6	Bee	Hayward
22	42.3	Milias	Gilroy	14	63.9	Crown	Alameda
25	60.8	Crandall	San Jose	15	63.4	Fong	Oakland
26	47.0	Britschgi	Redwood City	17	74.1	Miller	Berkeley
				18	65.2	Brown	San Francisco
				19	62.8	Meyers	San Francisco
				20	65.8	Burton	San Francisco
				23	62.5	Foran	San Francisco
				24	57.6	Vasconcellos	San Jose
				27	63.2	Ryan	Burlingame
6 Republicans				12 Democrats			

Second, Assembly districting, accomplished in 1965 under a Democratically controlled Legislature, shows a definite tendency to group the more strongly Republican areas into larger districts. Thus, other things being equal, Republicans can be expected to elect fewer Assemblymen than they would if the districts were all the same size. The converse holds true for some of the more strongly Democratic areas.^{2/}

Finally, the district lines create a large number of "safe" seats. A Democratic incumbent in a heavily Democratic district is very difficult to oust, as is a Republican incumbent in a district that is either predominantly Republican or that has only a narrow

^{2/} This phenomenon can be highlighted by looking at the largest and smallest Bay Area districts. The 20th district, which is the smallest, has 76,000 registered voters, is 65.8 per cent Democratic and elected a Democrat. On the other hand, the 22nd district, which is the largest, has 139,000 registered voters, is 42.3 per cent Democratic and elected a Republican. The same trend appears when the smallest one-third of the districts is compared with the largest one-third. The six smallest Assembly districts are more Democratic in registration (63.3 per cent) than the Bay Area average (58.3 per cent), and send an even more strongly Democratic delegation to Sacramento (83.3 per cent). On the other hand, the Democratic registration in the six largest districts is six percentage points below the areawide average -- 52.3 per cent compared to 58.3 per cent -- and they send a predominantly Republican delegation to Sacramento (66.6 per cent Republican).

In the six smallest districts, five Democrats and one Republican represent an average of approximately 90,000 registered voters. In the six largest districts, two Democrats and four Republicans represent an average of 128,000 registered voters. Thus, the overrepresented districts tend to be more strongly Democratic than the Bay Area as a whole, and the underrepresented districts less strongly Democratic. Further, the overrepresented districts have chosen an Assembly delegation that is much more strongly Democratic than their electorate. Conversely, the underrepresented districts have chosen a delegation that is strikingly less Democratic than their electorate.

Democratic margin. But in the Bay Area, safe Democratic districts far outnumber safe Republican districts; one count places the current proportion at eleven to four.

What are the implications of these findings for a Bay Area regional government? They suggest that use of existing Assembly districts as the voting areas for electing a regional legislative body might tend to favor Democrats more than districts otherwise drawn. The situation would change, no doubt, if the Republican party were to regain control of one or both houses of the California Legislature and then reapportion, or if Congress or the courts place restrictions on "safe-district" gerrymandering.^{3/}

Election From State Senate Districts

State Senate district boundaries would need two adjustments to made them fit the nine-county area (see Map 2 and Table 9). First, for Bay Area electoral purposes, Sonoma County would have to be detached from the 1st District, which extends to the Oregon border, and attached to another Bay Area Senate District, presumably the 4th, which includes Marin and Napa counties, as well as almost all of Solano.

Second, a small corner of Solano County containing 2,706 registered voters, now included in the 2nd Senate District along with

^{3/} "As legislative districts become more equally populated within a state through legislative and judicial action, attention will likely turn to combatting the gerrymander." Joseph E. Schwartzberg, "Reapportionment, Gerrymanders, and the Notion of 'Compactness,'" Minnesota Law Review 50: 443-452, January, 1966.

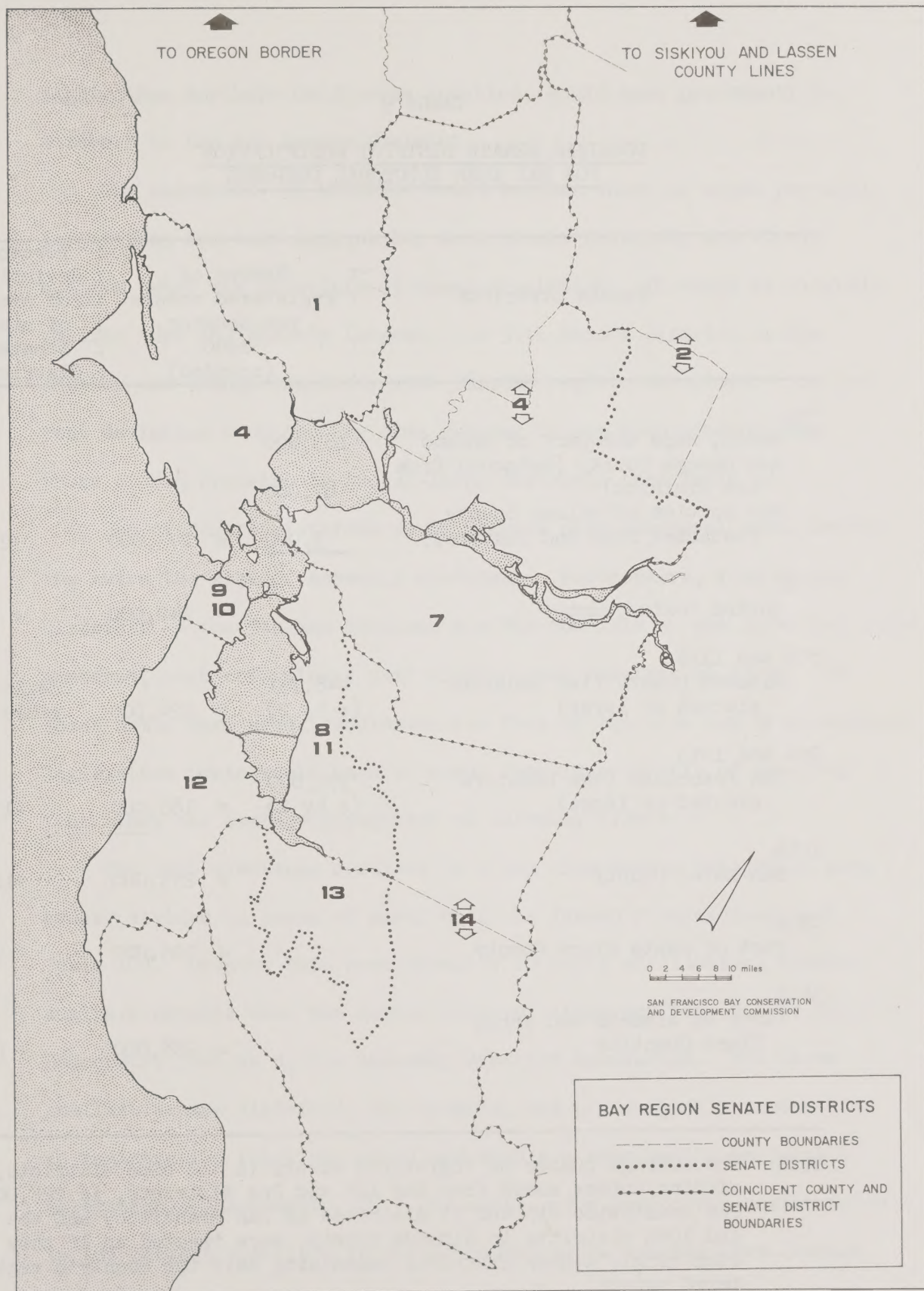


TABLE 9

POSSIBLE SENATE DISTRICT MODIFICATION
FOR BAY AREA ELECTORAL PURPOSES

Senate Districts			Percent deviation from average of nine Senate districts
	Number of registered voters per Senator, 1966 (rounded)		
4th			
Marin, Napa and part of Solano	183,000		
Add Sonoma County (detached from 1st District)	87,000		
Add portion of Solano County (detached from 2nd District)	<u>3,000</u>	= 273,000	+21
7th			
Contra Costa County		= 240,000	+ 7
8th and 11th			
Alameda County (two Senators elected at large)	448,751 (+ by 2)	= 224,000	negli- gible
9th and 10th			
San Francisco (two Senators elected at large)	372,000 (+ by 2)	= 186,000	-17
12th			
San Mateo County		= 253,000	+12
13th			
Part of Santa Clara County		= 205,000	- 9
14th			
Parts of Alameda and Santa Clara Counties		= 238,000	+ 6

NOTE: The average number of registered voters in the nine districts, including voters added from the 1st and 2nd districts, is 225,000. The countywide 8th and 11 districts in San Francisco, and the 9th and 10th districts in Alameda County, were treated as if they were each single member districts containing half the county's registered voters.

eight other Northern California counties, would also presumably be attached to the 4th Senate District.

The augmented 4th District would be just short of eight per cent larger than the next largest Bay Area Senate District, and should qualify under the principle of equal-population. It would be slightly smaller than the State's largest, the 35th Senate District in Los Angeles and Orange counties, with 281,000 registered voters. Its per cent deviation from the Bay Area average is not much greater than those of San Francisco's two at-large districts (see Table 9).

Use of Senate districts would provide nine electoral areas averaging twice the size of Assembly districts. Furthermore, four of the districts -- the 9th and 10th, and the 8th and 11th -- are in effect multi-membered, each coterminous pair electing two Senators-at-large. If these areas were used, candidates for four of the nine Bay Area regional legislative posts would have to mount campaigns capable of reaching four times the average population of Assembly districts.

The 1966 elections resulted in a Bay Area Senate delegation more evenly divided in terms of party than the Assembly delegation (see Table 10). Despite this near-equality in party affiliation, further analysis reveals that the Senate district lines drafted in 1965 favor Democrats, just as do the Assembly district boundaries. The three smallest Senate districts, for example, are predominantly Democratic in registration (61.2 per cent) and send a predominantly Democratic delegation to Sacramento (66.6 per cent). The Democratic registration in the largest districts is significantly below the Bay Area average

(53.4 per cent compared to 58.3 per cent). They elected a predominantly Republican delegation (66.6 per cent).

TABLE 10

1966 CALIFORNIA SENATE ELECTION RESULTS:
SAN FRANCISCO BAY AREA

Republicans				:	Democrats			
Dist.:	Reg. %:	:		:	Dist.:	Reg. %:	:	
No. :	Demo.:	Name :	City	:	No. :	Demo.:	Name :	City
4	55.5	McCarthy	San Rafael		7	57.9	Miller	Martinez
8*	63.0	Sherman	Berkeley		9*	63.9	[McAteer]	San Francisco
12	54.6	Dolwig	Atherton		10*	63.9	Moscone	San Francisco
14	48.1	Bradley	San Jose		11*	63.0	Petris	Oakland
					13	59.5	Alquist	San Jose
4 Republicans					5 Democrats			

* Districts 8 and 11, and 9 and 10 are paired.

In the three smallest districts, two Democrats and one Republican represent an average of 185,000 voters. In the three largest districts two Republicans and one Democrat represent an average of 244,000 voters.

Further Comments and Conclusions

With minor adjustments, the areas of either Assembly or Senate districts could be employed for direct election of all or part of a Bay Area regional legislative body. Democrats would probably be favored somewhat, because of the ways in which the boundaries are

drawn. However, if nonpartisanship, as such, favors Republicans, non-partisan elections based on Senate or Assembly districts might cancel out this influence. On the other hand, if the regional legislative posts assume considerable significance in the area, it is probably that the political parties will attempt to exert an informal influence in the "nonpartisan" campaigns and elections.

The major difference between the Senate and Assembly districts lies in their size, the eighteen Assembly districts averaging half the registered voters contained in the Senate districts. Campaigns based on Assembly district areas would thus be less expensive and require less effort. Also, there is less likelihood that minorities of various kinds would be diluted or "washed out" in the smaller districts. The Bay Area's 18-member Assembly delegation, for example, contains three non-Caucasians. The Bay Area's nine Senators, on the other hand, are all Caucasians. This suggests that ethnic or other minority populations, especially those that may be comparatively concentrated in their distribution, are less likely to be overlooked if smaller electoral districts are employed.

One of the advantages of using either Senate or Assembly districts is that they are ready-made and will be redistricted periodically, thus obviating the need to design election areas especially for a Bay Area regional government. Of course, there may be other counterbalancing considerations justifying the employment of still other alternative areas.

Would incumbent Senators and Assemblymen be disturbed at the prospect of other persons being elected from districts identical to their own, or nearly so? Perhaps this would be viewed as the creation of potential future rivals for Senate and Assembly seats. But how much difference would the identity of area make? Some, perhaps, but probably not a great deal. If the regional legislative posts become important, and if young, politically upward-mobile individuals are elected, they will eventually become rivals of incumbent, or successors of retiring, Senators and Assemblymen. This will probably happen regardless of the geographic areas covered by the regional electoral districts.

From the viewpoint of the public interest, this would be a healthy development. The recruitment ladder for public office is rather limited, given the relative infrequency with which county supervisors and city councilmen move up to higher elected positions. The creation of even 9 or 18 new elected posts in the Bay Area should be a welcome addition.

PART THREE

SUMMARY OF REPORT

CHAPTER VIII. SUMMARY OF REPORT

Introduction

1. The San Francisco Bay Conservation and Development Commission will need to consider comprehensive functional objectives, and not limit its studies solely to the Bay and shoreline. Similarly, it should also investigate comprehensive organizational arrangements, and not limit its consideration to a single-purpose Bay conservation agency. Highly restricted studies and evaluations would ignore many crucial interrelationships between the Bay and the region, and fail to take advantage of the current interest in exploring comprehensive governmental approaches to solving regional problems.

2. Consequently, the range of functions to be considered should be broad enough to include mutual implications -- political, administrative, economic, esthetic, etc. -- of Bay and shoreline planning and the many other regional activities and needs in the area. In doing this, the Commission will need to examine policy and institutional implications of many regional programs, both those now institutionalized and those likely to be developed in the foreseeable future.

3. Predicting and planning for the long-term future are hazardous. It would be preferable to recommend institutional arrangements based on the best estimates of likely needs in the next five to fifteen years. Further, any recommended organizational structure should be so designed as to require later re-examination, and possible modification when circumstances change, as they are sure to do.

4. The Bay Area's own experience is rich and instructive. Its existence as a region was established early. From the beginning the Bay, both as a transportation artery and as "open space", played a crucial role in shaping the area's development. A much greater than average governmental decentralization has encouraged organizational experimentation. Dissatisfied with directly elected single-purpose districts, the area's leaders invented the "Bay Area pattern" of constituent-unit representation in 1955, and years later, organized the Association of Bay Area Governments. But pressing problems are now forcing the region's leaders to think about further experimentation. This is going on through the work of the Association of Bay Area Governments, the San Francisco Bay Conservation and Development Commission, the Bay Area Transportation Study Commission, the Bay-Delta Study, the Joint Committee on Bay Area Regional Organization and many civic groups.

5. An almost unparalleled public concern with solving urgent problems sparked by an acute awareness of the need, and supported by a conviction that the Bay Area possesses a unique excellence which could be lost through inaction, have combined to bring effective regional reorganization nearer to realization than ever before.

6. This combination of factors affords the Bay Area a virtually unprecedented opportunity to improve on what it has already learned -- and to draw upon relevant experience elsewhere -- in designing a regional decision-making process fitted to the realities and needs of the 20th Century's closing decades.

Guidelines for Further Study

Criteria for any Regional Government

1. Any regional decision-making system should provide for full analysis and disclosure of the implications of proposed new programs. The implications of failure to act should be studied at least as carefully as proposed action, perhaps more carefully. The best techniques of systems analysis should be available to give members and staff of the regional agency up-to-date information on the consequences of proposed action -- or inaction.

2. Special-interest representation should be accommodated through the public hearing process, rather than by giving interest groups representation on the governing body.

3. The decision process should lead to decisions, and not to indefinite procrastination and postponement. This suggests minimizing veto provisions.

4. The geographic area and the functions of the regional agency should be as broad as the regional needs that are to be met.

5. Regional goals must be developed and the authority to implement them made available.

6. The implementation of such agreed-upon regional goals may take place on many levels. But the regional agency must have the means to insure that local or "fine-grained" decisions do not contravene the regional interest.

7. A legislative body should be both accountable and responsive, while retaining decision capability. "Accountability" is an ultimate and periodic responsibility to the public served. "Responsiveness"

means a readiness to consider fairly the concerns of all interested parties who may be affected by a proposed decision. It suggests also an absence of rigidity and a willingness to modify proposed plans when such change seems appropriate and in the public interest. "Decision capability" refers to the capacity of a legislative body to make a decision and move ahead, once the evidence has been collected and analyzed. These three terms designate overlapping and partially counter-vailing criteria. The ultimate aim should be to achieve an appropriate and necessarily delicate balance among them.

Some Determinants of Policy

Many factors help influence the outcome of policy decisions. These include the nature of the controversies and conflicting interests involved, the system of representation, financial resources, and the functional responsibilities of those charged with making decisions.

1. The Bay is an extremely important and controversial feature of the region. Pressures for filling come from those who would take advantage of the high potential value of tidelands as close-in "made" land: owners or speculative investors, developers, and local governments wishing to increase their tax base. The Bay may also be used as a location for freeways, garbage dumps, and airport and seaport expansion, among other purposes.

2. Pressures against filling also come from a variety of sources. The esthetic and psychological value of the Bay, its contribution to the beauty and openness of the region, and the residents' sense of identification with the Bay are all important. The beauty, ethos and mystique of the "Bay Region" translates into many forms of economic value, such

as premiums on view lots and the area's strong competitive position in the national specialty labor markets.

To many conservationists the Bay is worth preserving as a natural phenomenon, like Lake Tahoe or the Redwood stands. It is part of the "Pacific Flyway" for migratory birds. The Bay supports a major recreational and commercial fishery. It also has other great recreational potentials, for sailing and boating, for beaches, marinas, etc.

The earthquake hazard and known instabilities of deep mud raise serious questions about building on filled land. Finally, extensive filling could make the area's climate less equable and increase air pollution. The interplay of these conflicts, and the accommodations reached in resolving them, will determine the future policy governing "the controversial Bay."

3. If a multipurpose agency is established for Bay conservation and development, the assignment to it of other regional functions and controversial issues will expand the range of interests to be considered. This will influence the public policy determinations finally made.

4. The way the representation system works will be a major policy influence because it will determine the kinds of individuals who are recruited as community leaders and decision makers. Especially important will be the relative influence of persons having a local orientation as compared with those tending to take regional and long-term views of controversial matters.

5. Other policy determinants include the kinds of financial resources available to a regional agency, and the limitations on their use.

Representation on the Policy-Making Body

A regional legislative body could be constituted in any of many ways, most of which are variations on a few well-known organizational themes.

1. The region's own experience has resulted in development of a "Bay Area pattern" of constituent-unit representation, now embodied in a number of regional and sub-regional institutions in this area. The pattern is in part an outgrowth of dissatisfaction with directly-elected special district boards. It also represents an effort to devise forms tied to existing cities and counties more closely than either directly-elected or gubernatorially-appointed boards would be.

The constituent-unit philosophy was originally based on the assumption that the units so formed would be single-purpose in scope. Now, however, the Association of Bay Area Governments is proposing that the principle be extended -- through ABAG -- to four functions immediately, and eventually to a wide range of regional activities to be undertaken by ABAG. This puts the principle in a new context and necessitates a rethinking of its possible application to a multipurpose regional government.

2. Appointment of the entire membership of metropolitan or regional governing bodies may be appropriate in certain situations, but none of these situations is currently present in the Bay Area; therefore, appointment of the entire membership by the governor and/or the state legislature has been and is now rejected as a concept.

3. Direct election is the prevailing method of selecting what we hope are responsible, responsive, and accountable legislative bodies to govern general-purpose public agencies such as cities and counties.

Clearly direct election would be the preferred method for selecting accountable, responsive and vigorous multipurpose regional governments. As the Bay Area experience has shown, however, direct election is neither the only answer nor necessarily the best answer when single-purpose agencies are concerned. Possibly a single-purpose agency with important responsibilities and extensive regulatory authority -- such as control of Bay conservation and development -- could call forth enough attention and involve such a multiplicity of interests that direct election of its members would work. But we have no experience in the United States with single-purpose districts possessing such extensive regulatory power. So, although we insist that multipurpose districts or governments must have a substantial proportion, at least, of directly-elected members, we believe that the governing body of a single-purpose regional agency probably should not be directly elected. Any future move to create a single-purpose district governed by directly elected officials should be approached cautiously, and should be employed only as a last resort, subject to carefully designed safeguards.

4. Many different factors and variables affect the nature and character of direct election. These include:

a. Political Visibility. An agency with low political visibility cannot be expected to generate much interest or awareness on the part of the voters, and direct elections under such circumstances will not be effective.

b. Filling of Vacancies. Under some arrangements, interim vacancies on directly elected boards are filled by appointment by the remaining members of the board. The new member subsequently runs as an incumbent at the next election. Because incumbents are seldom defeated, this leads to excessive autonomy and a "closed club" setting.

c. Size of Electoral District. The size of the electoral district -- in either area or population -- exerts significant, complex and sometimes conflicting influences on elections.

For example, large districts may reduce political visibility; increase the influence of mass media; increase the effort and expense essential for effective campaigns, and thus also increase vulnerability to influence by well-financed interests; dilute the influence of concentrations of minority voters; and encourage candidates to give greater attention to regional matters.

Conversely, small districts may increase political visibility; increase the influence of community newspapers and the formal or informal community power structure; reduce the effort and expense of the campaigns; increase the likelihood that concentrations of minority voters will get some voice. But small districts will also make for parochialism.

d. Degree of Contest for Election. Close contests are encouraged by making the posts important; increasing their political visibility; avoiding "plurality" elections; and designing electoral districts that create a minimum of "safe" seats.

e. Partisan v. Nonpartisan Elections. "Conventional wisdom," and, apparently, the view of a majority of California's leaders, holds partisan elections at the local and regional levels to be undesirable. On the other hand, there is growing evidence of efforts to rethink this position in California and elsewhere. Local governments are increasingly concerned with basic issues of our society. Also, partisan influences are entering a number of local election contests in California. Partisan elections tend to identify major policy differences between candidates, stimulate voter interest and awareness, and increase voter turnout.

Partisan elections could be an effective means of selecting a regional legislative body and holding it accountable to the electorate.

5. The design of a regional legislative body should be intended to assure that it will be accountable, but maintain an appropriate balance between responsiveness and decision capability. This is a complicated matter.

Some obvious possibilities for organizing a regional policy body include: (a) electing the entire body from districts, on a partisan or nonpartisan basis; (b) employing the ABAG proposal or modification of it; (c) continuing BCDC, either as it is now constituted or with modifications, or (d) having members of the body appointed by the governor and/or the state legislature. Other possibilities to be considered include various kinds of "mixed" legislative bodies, including directly elected members, representatives selected by cities and counties and/or by ABAG, and appointees by the governor and/or the state legislature. A directly elected legislature could be designated as the lower house in a bicameral system; the ABAG Executive Committee could constitute the upper house, with a suspensory veto that could subsequently be overridden by a special vote of the lower house.

The Regional Legislature: Time and Effort, Tenure, Size, Compensation

Innumerable factors affect the degree of burden imposed by membership in a legislative body, the members' willingness and ability to assume the burden, and their freedom to discharge the responsibilities of office. This, of course, is true of members of the legislative body of any existing or prospective regional agency.

1. The number of functions assigned to the agency will affect time demands on its members, as will the legislature's size, and the efficiency of

its organization. The availability of top-quality staff will be important. The individual legislator's other responsibilities also enter the equation, especially if the constituent-unit principle is employed and a regional legislator is also a member of a city or county governing board, with its own time demands.

2. Elected officials of most local governments in California serve four-year terms. There is no obvious reason to depart from this practice in the case of a directly elected regional legislative body. Length of term of indirectly elected legislators is important, however, because it helps determine their degree of independence.

3. Regional legislators of a multipurpose agency with significant responsibilities should receive adequate salaries. The salaries currently paid members of the State Legislature -- \$16,000 per year -- would appear to be the appropriate order of magnitude, because office-holding should not be limited to those with independent means. Adequate salaries should be accompanied by a strong guarantee against conflicts of interest.

4. A legislative body of almost any size can be made to function. Recent Bay Area experience suggests that a legislative body of between 20 and 40 members would be both workable and sufficiently large to represent a wide spectrum of regional interests, but the optimum size can best be determined when the organizational design of an agency is actually being drafted.

Leadership: Selecting a Chief Executive

A crucial feature of an effective government is leadership -- the ability of individuals or groups within an agency to recognize existing problems, anticipate future needs, and formulate policies and programs to meet them.

1. The "musical chairs" method of choosing the presiding officers of the Bay Area Air Pollution Control District and ABAG, with one-year tenure and alternation between city and county representatives, does not make for strong and continuing executive leadership.

2. Acceptable means of developing leadership would be (a) direct, regionwide election of the chief executive -- equivalent to the governor at the state level or the mayor at the city level, or (b) selection of the chief executive by the legislative body for a specified term of office.

3. The executive's formal powers are also important in establishing him in a leadership position. Absence of an executive with a leadership role may place too great a burden on the top-level appointed staff.

Agency Functions and Powers: A Minimum

A minimum allocation of power for ongoing Bay conservation and development would be continuation of the existing functions of BCDC on a permanent basis. But this would not be enough. A combination of land use regulation, purchase and condemnation will be necessary to limit and control Bay filling -- where control is sufficient -- and to acquire and develop lands or lease or resell them subject to conditions, where these are appropriate means of Bay conservation and development.

Agency Functions and Powers: A Multipurpose Body

1. A crucial function of a multipurpose agency can be to insure recognition of the essential interdependence of the large-scale decisions made in a region. A multipurpose agency can bring under one policy-making roof the decisions now made by independent bodies -- or not made at all --

which affect the physical, social, economic and environmental situation throughout the Bay Area.

2. Several alternatives are possible in moving to create a multi-purpose agency. These relate to the degree of integration sought and the number of functions included. Full-scale integration or consolidation of functions is one possibility. On the other hand, it may be possible to achieve a good deal of integration short of actual consolidation. One promising alternative is an "umbrella" agency with powers to encourage interagency cooperation, and, as a last resort, to enforce coordination or even require consolidation. The umbrella government concept may represent the only feasible method of accomplishing regional objectives without major surgery on existing agencies -- either regional or local.

3. Which functions should be administered regionally? Senate Concurrent Resolution No. 41 (1967) specifically mentions the following functions for regional study: regional planning, air and water pollution, solid waste disposal, regional parks and open space, and transportation (including rapid transit, ports, airports, and bridges). In addition to these functions, the Governor's Commission on Metropolitan Area Problems (1960) mentioned water supply, regional sewage disposal and drainage, regional aspects of law enforcement and fire protection, regional aspects of urban renewal, and civil defense, in its enumeration of functions for possible administration by a regional agency. This listing emphasizes the fact that few public functions are exclusively regional or local. Most can be separated into local and regional components.

As a general rule, there is no point in regionalizing those things that can be handled adequately locally. Basic criteria for the decision are the quality of existing provisions for the function in question, the closeness of the relationships between functions proposed to be linked, the degree of entrenchment of existing agencies with a vested interest in the present arrangement, and the possible existence of important decision areas that are being left unattended.

Financing Regional Programs

The agency's need for fiscal powers would obviously depend on the responsibilities assigned to it. Financial resources of major magnitude will be essential, if implementation of the plan is to be in whole or in part by negotiated purchase or condemnation of lands in the Bay.

1. The overworked property tax is not a likely source for major new funds.

2. Other possibilities include: (a) a regional addition to the income tax, (b) taxes or charges specifically upon benefits derived from the Bay, (c) a long-term commitment of a portion of tolls from bridges across the Bay, (d) a "property appreciation" tax, (e) a property transfer tax, (f) a regional addition to one or more state taxes, such as the gasoline tax, cigarette tax, alcoholic beverage tax, general sales tax or other state levys.

3. A regional addition to the income tax is probably the most equitable, attractive and productive possibility, especially if it could be established on a withholding basis, like the federal income tax.

4. If a multipurpose agency is established, a whole "family" of taxes should be considered, perhaps with the income tax as the most important single source.

5. Taxes related to property value appreciation are both possible sources of revenue and tools for implementing plans. Thus they can be employed to influence the course of future urban development and thus help to achieve regional goals. These side effects of tax policies should be studied further by the Commission.

6. The new agency will need to be freed from the one-year budget cycle if it is to plan and implement on a long-term basis, and given access to capital financing arrangements that bypass California's archaic requirement for a two-thirds favorable referendum on general obligation bonds.

7. If the agency develops a land bank function -- buying, selling, and leasing land to help carry out its plan -- this activity could become partially self-supporting.

8. If some of the federal and state funds made available in the Bay Area were channelled through the new agency, this could provide it with both revenues and leverage for plan implementation.

Relations with Other Governments

1. Many federal, state and local agencies are involved in policies and programs that affect the Bay and shoreline, either directly or indirectly. The successor agency recommended by BCDC should be designed to take these many interrelationships into account.

2. Several kinds of state and federal interests must be considered. A prime fact, however, is that further degradation of the Bay,

or of the Bay Area, would represent a major loss to the state and nation. In addition, both the federal and state governments invest large sums of money in the Bay Area every year. Consequently, they have a legitimate interest in seeing the money well spent.

3. The state's interest is perhaps best protected by its ability to encourage rational planning and by retention of ultimate authority to restructure the new regional agency, if that should prove desirable later on. Similarly, the federal interest may best be protected not only by its ultimate authority over areas under federal jurisdiction, but also by national encouragement of the development of strong and effective regional planning processes.

Alternative Approaches to Metropolitan Governmental Organization

This section summarizes the survey of alternative approaches, and attempts to indicate the lessons that may be learned from these experiences.

The One-Tier Approach: City-County Consolidation and its Possible Relevance to the Bay Area

Typically, city-county consolidation proposals feature the merger of the major city -- or of all cities in a metropolis -- with the county government.

1. The complete consolidation of all 91 cities and nine county governments into a single entity is not only exceedingly unlikely, but also probably highly inadvisable. With 7,000 square miles of area and 4.5 million people, the Bay Area is too large and has too many diverse interests for any such massive consolidation.

2. City-county consolidation within individual counties could conceivably produce a stronger local level of government. It is debatable, however, how feasible or helpful such consolidation would be, and whether it would further the solution of regional problems such as Bay conservation and development.

3. Concepts employed in the consolidations in the Baton Rouge and Nashville areas may be helpful here: that is, of separate service areas for urban and non-urban sections, with different tax levels reflecting different levels of service.

4. Periodic review of the results of a metropolitan reorganization, as practiced in the Baton Rouge area, is a practice that should be emulated here.

5. Both the Baton Rouge and Nashville areas have directly elected chief executives (metropolitan mayors). These offices were created expressly to provide areawide policy leadership.

6. Mandatory redistricting of metropolitan legislative seats can prevent the growth of representational inequities when population shifts. The Nashville-Davidson County charter, for example, requires electoral district revision every ten years.

Two-Tier Approaches: Introduction

Two-tier approaches clearly are more acceptable than any one-tier arrangement, and have more to offer in a complex, multicounty situation such as the Bay Area's. These include Toronto's federation and Miami's comprehensive urban county (Dade County), and in addition, other less comprehensive examples, including multicounty special districts and authorities, and councils of governments.

Two-Tier Approaches: Federation and Its Possible Relevance to the Bay Area

A federation establishes a new general or multiple-purpose metropolitan government to handle areawide functions, but retains local governments to perform activities designated as local. The best-known and most successful example of federation on the North American continent is the Municipality of Metropolitan Toronto, created in 1953. The following generalizations are based primarily on the Toronto experience.

1. Action by the provincial (state) legislature is an effective way of accomplishing metropolitan reform. Moreover, adoption by legislative act, instead of popular referendum, preserves the legislature's authority to effect further reorganizations when changed circumstances so require.

2. The areawide and local levels of government may logically share functions, the former handling regional components and the latter taking care of local components. Furthermore, the allocation of functions, or components of functions, between levels of government, can be "tailored" to fit the institutional situation in the area where federation is being installed.

3. The metropolitan government may appropriately serve as an "umbrella" agency for specified purposes. In Toronto these include approval of local bond proposals, equalization of financial resources, and appointment of the governing board of the regional transportation agency. Thus an upper-level government can influence or determine local and regional policies without engaging in direct management of the specified functions.

4. Regional planning is an important power of the upper-tier government in a federal system. In Toronto, for example, the metropolitan government can draft general regional plans which, after provincial approval, are binding on the local governments. The latter are responsible for local planning and zoning.

5. A powerful executive committee is essential when the governing body of the federation is so constituted as to be unwieldy. Toronto's experience suggests that a legislature of 25 or more members needs a smaller executive committee with considerable authority.

6. Periodic review by an independent agency, plus legislative freedom to effect reorganization in the light of experience and changed circumstances, are essential if the regional government is to be kept up-to-date.

Two-Tier Approaches: The Comprehensive Urban County and its Possible Relevance to the Bay Area

Under the comprehensive urban county approach, an existing county government is converted into a metropolitan agency, which handles regional functions. Municipalities or other local entities continue to provide local services. The following generalizations are based on the experience of Dade County (Miami). Because Dade County encompasses an entire metropolitan region, the single-county Miami experiment is fully as relevant to the possible allocation of functions at the regional level as is the experience of a true federation like Toronto's.

1. Since the Bay Area is a nine-county complex, the comprehensive urban county approach probably would be useful chiefly to improve the existing county governments' ability to deal with those problems that can be solved by single-county action.

2. The areawide powers granted to the metropolitan government in Dade County to adopt and enforce comprehensive plans, land use regulations, and uniform building and related technical codes, constituted a major break-through at the metropolitan level in the United States. These powers are widely recognized as crucial instruments for the intelligent direction of urban growth, but they are also some of the most jealously guarded prerogatives of local governments in virtually all metropolitan areas.

3. Endowing a county or areawide government with authority to determine and enforce reasonable minimum standards of service for cities and non-school local special districts could be a method for strengthening the local government level.

4. An independently elected chief executive may be necessary for effective public leadership in an areawide government.

5. Extremist positions for and against metropolitan reform may have a seriously debilitating effect on any newly-formed metropolitan government, before it has had an opportunity to be tested fairly. Referenda and threats of referenda have been employed for many years as a major weapon in the continuing campaign of harassment of Dade County -- in contrast with the Toronto experience, where reform enacted by legislation, without referendum, protected the new government and gave it a chance for a fair trial.

Two-Tier Approaches: Regional Districts and Agencies and Their Possible Relevance to the Bay Area

Use of regional and multicounty districts and agencies is one of the most promising approaches to metropolitan problems. They afford maximum flexibility, and can be installed with a minimum of disturbance to

existing units, if that is desired. They can be assigned as few or as many functions as circumstances require, and their service areas can readily be designed to fit the area of need.

1. Much recent and current Bay Area discussion of approaches to regional problems has centered on metropolitan districts, in one form or another.

2. The formation of metropolitan districts by state legislative action without referendum has ample precedent in the Bay Area and elsewhere.

3. Most special districts are subject to severe financial limitations. For example, some are forced to depend heavily on the property tax, while others may be restricted to user charges and revenue bond financing. Such limitations should be minimized if a new district is to be created in the Bay Area, or an old one reorganized.

4. The disposition to establish governing bodies that prove insufficiently accountable to the people is a basic and unresolved issue in the use of the district approach.

5. Regional problems are interrelated. The continued formation of single-purpose metropolitan districts further proliferates governments and disperses public authority. Such districts cannot effectively solve a range of regional problems, and the public has great difficulty in keeping them accountable.

6. Requiring local plans to adhere to a regional general plan should be an important method of fostering better planning in the development of an area, while retaining a degree of flexibility and control at the local level.

7. A multipurpose metropolitan district should be assigned significant responsibilities and powers, both to enhance its problem-solving capability and to increase its political visibility. Further, in order to reduce fragmentation, and increase accountability, possibly some of the functions now allocated to single-purpose districts should sooner or later be assigned to the multipurpose district.

Two-Tier Approaches: Councils of Governments and Their Possible Relevance to the Bay Area

The experience with councils of governments, as such, has little to offer the Bay Area that is not already well known here. This is true because the region's local leaders, working through a council of governments, have agreed (although not unanimously) that voluntary cooperation is not sufficient to solve regional problems. The Association of Bay Area Governments and its recent governmental proposals demonstrate this. Thus what is being proposed by ABAG should not be confused with a voluntary council of governments. The ABAG proposal would build onto an existing voluntary council framework, modify it somewhat, and convert it into a limited-purpose regional government.

A Proposal for Regional Government Sponsored by the Association of Bay Area Governments

The Association of Bay Area Governments has urged that it be reconstituted by the Legislature as a formal regional government with limited functions, but with the intention of eventually taking over Bay conservation and development, as well as other regional programs. Thus it is essential that BCDC examine the ABAG proposal carefully.

Important Contributions of the Proposal

1. The proposal recognizes the necessity for a limited-function, multiple-purpose regional government in the nine-county Bay Area.
2. The proposed regional government would be given its powers by direct legislative act. This recognizes the inability of a voluntary agency to perform the difficult acts of governments, admits the need to avoid referenda, and thus retains in the State Legislature the power to reorganize the agency later in the light of experience.
3. The proposal selects three functions that are critical regional needs, or soon will be so, and that involve a minimum challenge to existing agencies.
4. The ABAG recommendation recognizes that important powers will be essential to the proposed open space acquisition program, including long-term capital financing and eminent domain.
5. The proposal attempts an adjustment of voting power to reflect in rough fashion the comparative populations of the constituent-units, the cities and counties.

Functions and Powers

1. The proposal would continue ABAG's advisory regional planning functions, and, in addition, give the new government responsibility for satisfying regional refuse disposal needs, regional open space and park needs, and regional airport needs. Furthermore, the proposal envisions expansion of the functions to include other regional problems as they develop, as well as absorption of existing special-purpose agencies over time.

2. Despite a number of constructive features, this must be considered a "back-door" approach to regional government, attaching functions gradually to a pre-existing "forum-type" agency. A more direct and logical way would be to look first at problems, and then devise organizational solutions. This is the approach being employed by BCDC.

3. If the ABAG proposal should be adopted, but the later expansion of its functions does not take place, ABAG would have contributed to the proliferation of limited-function agencies in the region. This is true because some kind of agency or agencies will have to take over the BCDC and BATS functions, as well as other emerging regional needs.

4. Achievement of the goals outlined by ABAG's preliminary regional plan would require strong exercise of the police power (which is left out of ABAG's proposal altogether). It would need the power of eminent domain (which would be granted under ABAG's proposal, but subject to such stringent veto requirements as to render the authorization virtually useless for major projects). Excellent financial resources would be essential. (Under the present governmental proposal, ABAG would have to depend primarily on a \$0.01 per \$100 property tax, plus general obligation bond financing.)

Representation

There appears to be substantial agreement on the need to form a limited-function regional government in the San Francisco Bay Area. One of the critical undecided issues, however, is that of representation: how the regional legislative body should be constituted. The ABAG proposal presents a concrete recommendation which needs analysis and to which the criteria outlined in Chapter III can be applied.

1. The proposal endorsed by a majority of the ABAG General Assembly would, as was noted in Chapter VI, attempt to establish a rough proportion between representation and population. It would increase the Executive Committee membership to 34, and give the larger cities and counties additional votes. The reorganized Executive Committee would become the Association's legislative body, although its actions in planning, financing, and acquiring property would be subject to approval by the General Assembly, in which each city and county would continue to have an equal vote. The President and Vice President would be elected for two-year terms by secret ballot of all city councilmen and supervisors voting as a body. The President and Vice President would not have to be councilmen or supervisors.

2. During the ABAG discussions, a number of "minority" proposals were put forth. Most of these urged that representation be more closely proportional to population, or that all or part of the legislative body be directly elected, or both.

3. The "one man, one vote" issue must be considered in two ways. First, will principles underlying the series of U. S. Supreme Court decisions requiring reapportionment of state legislatures also be applied to the legislative bodies of local and regional governments? At present this matter is very complicated and the answer unclear. New and seemingly conflicting cases are being decided all the time. Second, regardless of current or possible future requirements imposed by court rulings, the principle of equal representation is so important that it must be considered on its own merits when regional governmental proposals are being contemplated.

4. In many ways, the ABAG proposal for regional government departs from the principle of representation in proportion to population. Several departures involve voting strength on the Executive Committee and choice of its members. Others involve General Assembly member selection and relative voting strength. Still others relate to the malapportionment of county supervisorial districts.

Departures involving the Executive Committee:

(a) The four smallest counties would be over-represented, Alameda and Santa Clara Counties would be under-represented, and a close approximation of population would be achieved only in the cases of Contra Costa, San Francisco, and San Mateo Counties.

(b) The Alameda and Santa Clara County governments would be under-represented, as compared with their cities, thus partially disenfranchising unincorporated area residents in those two counties.

(c) The small cities would have a disproportionate influence in the selection of Executive Committee members. Each mayor has one vote in his mayors' conference. Thus the Mayor of Richmond, representing a city of 82,000, would have no more voice than the Mayor of Hercules, representing 310 people.

Departures involving the General Assembly:

(a) All cities have equal voices in General Assembly voting on the municipal side, irrespective of their size.

(b) Similarly, all counties have an equal voice in General Assembly voting on the county side. Alameda County, with one million residents, is treated equally with Napa County, which has 76,000 people.

(c) Unincorporated area residents are partially disenfranchised in the General Assembly, being represented only on the county side of the bicameral body.

Malapportionment of county supervisorial districts is surprisingly widespread. Only the supervisorial districts in Alameda County appear to be well-apportioned. Seven counties showed marked variations in the size of supervisorial districts.

5. The ABAG proposal's noncompliance with equal representation could be reduced in several ways. (a) County supervisorial districts could be reapportioned. (b) Smaller counties and smaller cities could be grouped for the purpose of selecting representatives. (c) A "mixed" legislature could be created, some members being chosen under the constituent-unit principle and others by direct election from acceptably apportioned districts.

6. The mayors' conference as a means of selecting representatives.
Weaknesses of the mayors' conferences:

(a) Unlike county boards of supervisors, the mayors' conferences are not legislative bodies. They are monthly social-discussion groups, lacking cohesion and continuing responsibilities.

(b) Many cities rotate their mayors frequently, causing rapid turnover in mayors' conference membership. This intensifies the problem of developing leadership, cohesion, and a sense of continuing purpose.

(c) The conferences often tend to be provincial, each city being concerned primarily with its own immediate problems.

(d) Appointments to regional agencies, including ABAG, appear to be made rather casually, on the basis of limited consideration of the candidates and their abilities.

Possible changes in the mayors' conferences:

(a) If the appointive role takes on greater significance, the selections would probably be considered more carefully.

(b) Longer tenure for mayors would reduce conference membership turnover.

(c) Alternatively, each city could appoint a long-term representative, not necessarily the mayor.

(d) A plan for weighted voting or grouping of cities, if carefully designed, would reduce the disproportionate voting strength of the small municipalities.

The Partisan Effects of Selection by Nonpartisan Local Government

1. Should a new regional legislature be partisan or nonpartisan?

The preponderance of California opinion still appears to favor nonpartisanship, in local and probably regional elections, although there are a number of reasons for reconsidering this position: (a) Party machines of the corrupt turn-of-the-century variety no longer exist. (b) Local government is increasingly involved with basic social issues, the same issues with which the parties concern themselves on the state and national levels. (c) Conversely, political parties are involving themselves -- directly or indirectly -- in many local elections in California. (d) Nonpartisan local government is not politically neutral (see below).

2. Local government is not politically neutral. By and large, it gives a distinct and material advantage to Republicans. This is true of both city and county government.

3. The partisan deviation of local government is both perpetuated and compounded in the ABAG councils. Thus the "Republican advantage" manifested by local government is even greater in the ABAG Executive Committee and General Assembly.

Independence of View and Voting by Regional Legislators

1. Some degree of independence is desirable if a regional legislator is to weigh policy conflicts fairly and reach informed judgments that are in the best interest of the entire area. Furthermore, the legislative process requires a flexibility and freedom to negotiate, which is denied by the local practice of sending "instructed" delegates to the ABAG sessions.

2. ABAG delegates are vulnerable to local community pressures, and to replacement by their boards of supervisors or mayors' conferences at any time. These vulnerabilities to immediate local pressures can make it hazardous for an ABAG member to vote his convictions on the proper balance between regional and local concerns, especially when the most important and difficult issues are under consideration.

Conclusions

1. The ABAG proposal is the outcome of a remarkable opinion-shift toward acceptance of the need for a regional governmental approach to a number of areawide problems.

2. The proposal quite properly bears the imprint of its source, the city and county governments of the Bay Area.

3. But there are other actors in the regional drama as well as other and perhaps better ways of representing local and regional interests. These also need to be considered.

Direct Election: Two Possibilities

In addition to the constituent-unit principle of representation embodied in the ABAG proposal, several other methods of choosing some or all of the members of a regional legislative body have been discussed in the Bay Area. One suggestion is that the State Senators and Assemblymen elected from the Bay Area could also serve as the regional legislature. Although the pressures of state legislative business render this suggestion infeasible, election of regional legislators on the basis of either Assembly or Senate districts is a definite possibility.

Election from Assembly Districts

1. Given either of two minor adjustments, 18 electoral areas based on Assembly districts could be created (see Map 1, page 190).

2. If Assembly districts were used, the resulting electoral process would resemble Assembly elections in some respects.

3. The present Assembly districts tend to favor Democrats. Assembly districting, accomplished in 1965 under a Democratically controlled Legislature, tends to group the more strongly Republican areas into larger districts and the more strongly Democratic areas into smaller districts. Thus, other things being equal, Republicans could be expected to elect fewer Assemblymen than if all districts were of equal size.

4. The district lines create a large number of "safe" seats. Safe seats are those whose voter registrations are such that an incumbent of the appropriate political party will, under normal circumstances, be very difficult to oust. In the Bay Area, safe Democratic districts

far outnumber safe Republican districts: one count places the current proportion at eleven to four (representing a total of 15 safe seats out of the 18 in the Bay Area).

Election from State Senate Districts

1. Two adjustments would modify State Senate districts sufficiently to create nine electoral districts coterminous with the Bay Area (see Map 2, page 198). This would provide nine electoral areas averaging twice the size of Assembly-based districts. Alameda and San Francisco counties each have two coterminous and countywide senatorial districts. These four districts are thus approximately four times the size of the average Assembly district.

2. The Senate district lines generally favor Democrats, just as do the Assembly district boundaries.

3. Again, the district boundaries create a large number of safe seats. And again, the Democrats are favored. One current estimate is that either five or six seats may be considered safely Democratic under normal circumstances, and two or three seats safely Republican.

Conclusions

1. With minor adjustments, either Assembly or Senate districts, as they now stand, could form the basis for electing a regional legislature.

2. Democrats would be favored somewhat, because of the way district boundaries are presently drawn.

3. Size is the major difference between the two sets of districts. On the average, Assembly districts have half the number of registered voters of Senate districts. However, two pairs of the Senate districts

are coterminous and countywide districts, and are thus twice as large as they otherwise would be.

4. Size of district is significant: (a) Campaigns based on present Assembly district areas would require approximately half the expense and effort of those based on present Senate districts (one-fourth as compared with the Alameda and San Francisco Senate districts). (b) The smaller districts would make it less likely that minority populations would go unrepresented. For example, the Bay Area's 18-member Assembly delegation contains three non-Caucasians. The Bay Area's 9 Senators, on the other hand, are all Caucasians.

5. Districts based on either Assembly or Senate districts would be redistricted automatically from time to time.

6. Because the recruitment ladder into elected public office is limited, the addition of 9 or 18 new elected posts in the Bay Area should be welcome.

APPENDIX

LOCAL GOVERNMENT AND POLITICAL PARTISANSHIP:
A PRELIMINARY ANALYSIS

Counties and Partisan Registration

In eight of the nine Bay Area counties the party registrations of the county supervisors are significantly different from those of the electorate (see Table 11). In five counties the differences -- which range from 14 to 49 percentage points -- favor the Republicans. The reverse is true in one striking case: because of a combination of (1) at-large elections in a county that is 64 per cent Democratic, (2) active participation in elections by politically-oriented groups, and (3) the filling of vacancies by mayor's appointments, San Francisco has a board that is 100 per cent Democratic in registration. The registration of supervisors in Contra Costa and Marin counties also favors the Democrats, but somewhat more modestly.

To describe the phenomenon another way, Solano County, which shows the greatest divergence, has the highest Democratic registration of the nine counties, 69 per cent. But the Solano board is made up of four Republicans and one Democrat, i.e., it is 20 per cent Democratic. Other counties whose divergence between registration and electorate strongly favors the Republicans are Napa (-36%), Santa Clara (-33%) and Sonoma (-34%).

An array was made of the supervisorial districts of eight counties, in another approach to the problem of verifying and measuring the fact that present procedures for selecting local governing boards tends, with some exceptions, to favor the election of Republicans.^{1/} Districts were grouped in quartiles, from the lowest to highest in Democratic registration, and the results are summarized in Table 12.

Republicans retain a distinct advantage in the first three quartiles, electing supervisors who are 70 per cent Republican by registration in each instance, and only 30 per cent Democratic. The voters in each of the three quartiles are 50, 53, and 61 per cent Democratic, respectively. Thus, the percentage point deviation which favors Republicans is -20, -23 and -31, respectively.

Only when the fourth quartile is reached does the situation change. Supervisorial districts in the fourth quartile, which range from 63.39 per cent to 77.94 per cent in Democratic registration, elected 7 Democrats to 3 Republicans. Thus in the fourth quartile, the average partisan composition of the supervisors and of the electorate are quite similar, 70 per cent and 68 per cent, respectively.

The transition from a distinct Republican advantage to an approximation of Democratic "equality" appears to take place in the vicinity of a 63 per cent Democratic voter registration. For example, the three lowest ranking districts in the third quartile, Napa's 4th and 5th, and Alameda's 2nd -- with Democratic voter percentages of 62.50 to 63.26 -- all elected Republican supervisors. The three highest ranking districts in the fourth quartile, Santa Clara's 2nd, Contra Costa's 2nd, and Solano's 3rd -- with Democratic percentages of from 63.39 to 66.52 -- all elected Democratic supervisors. At about the 63+ percentage level of Democratic voter registration, Republicans cease to be favored; consequently, the fourth quartile supervisors and electorate are very similar in partisan composition.

These facts tell us a number of things. First, there is a relationship between the partisan affiliation of voters and of the supervisors they elect. Second, if partisan affiliation or other factors related to partisan affiliation were statistically neutral -- i.e., had no discernable effect on the outcome of local elections -- the supervisors would

TABLE 11

Voters and County Supervisors: Differences in Party Registration, 1966

County	Total Voter Registration (thousands)	Democratic Registration (thousands)	Registration (Percent Democratic)	Board of Supervisors (Percent Democratic)	Percent Deviation ¹
Alameda	505	315	62.	60	- 2
Contra Costa	240	139	58.	80	+ 22.
Marin	89	41	46.	60	+ 14.
Napa	36	20	56	20	- 36.
San Francisco	372	238	64	100	+ 36
San Mateo	253	138	51	40	- 14
Santa Clara	386	205	53	20	- 33
Solano	61	42	69	20	- 49
Sonoma	87	47	54	20	- 34
Total	2,029	1,185	58		

1. Difference between the registration of the electorate and the supervisors is expressed in percentage points. A minus (-) sign means that percent Democratic registration of the supervisors is lower than that of the electorate; a plus (+) means that it is higher.

TABLE 12

Voters and County Supervisors:
Quartile Groupings of Supervisorial Districts, 1966

Supervisorial Districts	Voter Registration % Democratic	Supervisors % Democratic	Deviation ¹
1st Quartile (lowest Democratic registrations)	50	30	- 20
2nd Quartile	53	30	- 23
3rd Quartile	61	30	- 31
4th Quartile (highest Democratic registrations)	68	70	+ 2
Total	57	38	- 19

1. Difference between the registration of electorate and supervisors expressed in percentage points. A minus sign (-) means that the percent Democratic registration of supervisors in the specified quartile is lower than that of the voters; a plus (+) means that it is higher.

TABLE 13

Voters and City Councilmen: Cities Grouped by Quartile, 1966

	Voter Registration % Democratic	Councilmen % Democratic	Percentage Point Deviation (councilmen compared with electorate)	% of City Councils with Majority of Democrats	Percentage Point Deviation (Percent Democratic controlled councils compared with electorate)	Total Voter Registration (rounded)
1st Quartile (lowest Democratic registrations)	37	22	-15 ^a	18	-19 ^a	160,000
2nd Quartile	51	41	-10	35	-16	260,000
3rd Quartile	61	47	-14	35	-26	667,000
4th Quartile (highest Democratic registrations)	71	68	- 3	73	+ 2	227,000
Total	58	45	-13	40	-18	1,314,000

a. A minus sign (-) indicates that the total of councilmen or councils in the quartile were less Democratic in party registration than the electorate, a plus (+) indicates that they were more Democratic.

approximate the partisan registrations of the populace from which they are chosen. This is not the case. Third, the Republicans have a pronounced advantage, which is not overcome until Democratic registrations of approximately 63 per cent and above are reached.

This indicates the existence of a Republican advantage of roughly 13 percentage points. The percentage-point advantage is translated into an even larger advantage in the proportion of Republican-registered supervisors elected. With an electorate that is 58 per cent Democratic, the eight counties are governed by 40 supervisors who are 38 per cent Democratic in registration -- representing a differential of 20 percentage points.

Cities and Partisan Registration

Measures such as those applied to county government were also used to test the political neutrality of city government. For example, an array of cities was prepared, analogous to that just presented for county supervisorial districts. The 90 city governments were arrayed in Table 13, ranging from Hillsborough, the city with the lowest Democratic registration (21 per cent) to Pittsburg, which has the highest (82 per cent).

The results are strikingly similar to those obtained from the array of supervisorial districts. Republican councilmen predominate in the first three quartiles, and to an even greater extent so do cities controlled by councils a majority of whose members are Republican by registration. Only in the fourth quartile -- composed of cities with Democratic voter registrations ranging from 65.0 to 81.7 per cent, and averaging 71.2 per cent -- do Democratically-controlled councils prevail.

While there is no definite "breaking point," councils with a majority of Democrats predominate when the Democratic voter registration of the city exceeds 67 per cent. Below that level one finds a preponderance of councils with Republican majorities.

The end result: an eight-county municipal electorate that is 58 per cent Democratic selects a "delegation" of city councilmen who are 45 per cent Democratic. Further, because the small cities tend to be Republican, 60 per cent of the region's cities are controlled by Republican majorities. A comparison of councilmen with electorate suggests a Republican advantage of approximately 13 percentage points. And the "breaking point" of 67 per cent mentioned above suggests that the advantage may run even higher. Whatever the value of these attempts to quantify the differentials, one clear fact emerges: present methods of electing city councilmen tend to favor Republicans over Democrats.

In still other ways the cities reveal differences between the partisan flavor of councils and electorate, analogous to those shown above by counties. Table 14 is obtained by grouping the cities within each county. In seven of the eight counties the city councilmen were less Democratic than the registered voters within incorporated areas, the differences ranging from four to 20 percentage points. In Solano County, for example, where 70 per cent of the voters were registered Democrats, only 50 per cent of the city councilmen were so registered. Or, to look at the matter another way: Bay Area city residents in the eight counties were approximately 58 per cent Democratic and 42 per cent Republican. Their elected city councilmen, on the other hand, were 45 per cent Democratic as compared with 55 per cent Republican.

Weighted Measures of the Partisan Differential

These measures of the spread between the partisan registration of a county's supervisors or city councilmen and that of its electorate are revealing, but do not take into account differences in size of the governments involved. Marin County is treated the same as Alameda County,

TABLE 14
Voters and City Councilmen: Cities Grouped by Counties, 1966

County	Electorate % Democratic	Councilmen % Democratic	Deviation ¹
Alameda	62	53	- 9
Contra Costa	63	59	- 4
Marin	46	29	-17
Napa	59	65	+ 6
San Mateo	54	39	15
Santa Clara	53	37	-16
Solano	70	50	-20
Sonoma	52	40	-12
Total	58	45	-13

1. A minus sign (-) means that the percent Democratic registration of councilmen is lower than that of the voters; a plus (+) means that it is higher.

TABLE 15
Party Differences: County, Weighted for Population

County	Population (000)	County Deviation (in Percentage Points)	Deviation Multiplied by County Population (000)
Alameda	1,047	- 2	- 2,094
Contra Costa	531	+22	+11,682
Marin	197	+14	+ 2,758
Napa	77	-35	- 2,695
San Francisco	740	+36	+26,640
San Mateo	540	-15	- 8,100
Santa Clara	927	-33	-30,591
Solano	165	-49	- 8,085
Sonoma	183	-34	- 6,222
	4,407		-16,707 net total
Regional San Francisco excluded	3,667		-43,347 net total if San Francisco is excluded
Regional weighted deviation (percent)			= - 4
Regional weighted deviation (percent) San Francisco excluded			= -12

TABLE 16
Party Differences: City, Weighted for Population

(City Governments, grouped by County)		
County	Weighted Deviation Measure for Cities in Each County ¹	Deviation Weighted for Population ² (Percent)
Alameda	-12,364	-13
Contra Costa	+11,111	+ 3
Marin	- 1,478	-12
Napa	- 377	- 9
San Mateo	- 2,528	- 6
Santa Clara	-21,734	-28
Solano	- 3,620	-25
Sonoma	- 1,296	-16
	-42,296	-15 Percent (Net total divided by city population)

1. The weighted deviation measure for cities in each county was derived by multiplying the percentage point deviation of each city by its population expressed in thousands and taking the algebraic sum.
2. The weighted deviation measure was divided by the total city population in each county to produce a net weighted deviation measure comparable to that shown for all counties in the Bay Area at the bottom of Table 15.

and the city of San Jose equated with Monte Serrano. The influence of a large city on public policy in the region it occupies is inevitably far greater than that of small towns. The same holds true for populous counties as compared with their lightly-populated counterparts. Thus a comparable deviation in percentage points in the case of a city with 200,000 people is of far greater significance to the region than in a municipality of only 2,000. Some measurement is needed to correct for population differences. A simple method multiplies the deviation in percentage points by the population of the governmental unit. Tables 15 and 16 show this for counties and cities, respectively.

All county areas except Contra Costa and San Francisco clearly favor Republican registrations on either the county side, or the city side, or both (see Table 17). San Francisco, as was noted above, strongly favors Democratic registration among its supervisors.

Furthermore, the regional net weighted measure favors Republican registrations on both the city side and the county side. When San Francisco is included in the county count, the regional net weighted figure is -4 percentage points; if San Francisco is excluded, the other eight counties give a figure of -12 per cent, not very different from the net weighted figure on the city side of -15 per cent. To sum up, whatever may be the causes, the city and county electoral processes tend to choose local legislators whose partisan registration is, on the average, significantly more Republican than that of the electorate.

Local Government is Not Politically Neutral

If influences on the outcome of local elections which are related to partisanship were neutral in a statistical sense, city councilmen and county supervisors would approximate their jurisdiction's voters in partisan registration. There would, of course, be variations, but a normal distribution -- assuming complete neutrality of the partisan registration factor -- would see approximately as many local councils and boards exceeding their electorates in Democratic registration as falling below.

On the contrary, however, the evidence shows that local government as a representational mechanism is not "politically neutral." It confers a distinct -- although not universal -- advantage to persons of Republican registration. The implications of this fact should be given consideration in reviewing various methods of choosing policy makers to govern a new regional agency.

Partisan Registrations of ABAG Officers

The "Republican advantage" in local legislative bodies influences the composition of the Association of Bay Area Governments (see Tables 18 and 19). For example, the eight official representatives of county governments currently members of the ABAG Executive Committee consists of six Republicans and two Democrats, i.e., 25 per cent Democratic.^{2/} The city representatives are composed of eight Republicans and five Democrats, i.e., 38 per cent Democratic.

Because the Executive Committee votes as a single body, and not by the General Assembly's dual roll call, the overall percentages are more meaningful than the separate city and county figures. The 21 Executive Committee members are made up of 14 Republicans and seven Democrats, i.e., 33 per cent Democratic. That is the de facto partisan composition of the steering committee of the voluntary "legislature" for a regional population that is 58 per cent Democratic in composition.

The General Assembly's official county representatives are 75 per cent Republican and 25 per cent Democratic. On the city side, the figures are 55 per cent Republican and 45 per cent Democratic.^{3/}

But, because of the "two-house" voting requirements in the General

TABLE 17

Party Differences: City and County Comparisons

	County Side Simple Deviation (Percent)	City Side Net Weighted Measure of Deviation for Cities in County ² (Percent)
Alameda	- 2	-13
Contra Costa	+22	+ 3
Marin	+14	-12
Napa	-35	- 9
San Francisco	+36	---
San Mateo	-15	- 6
Santa Clara	-33	-28
Solano	-49	-26
Sonoma	-34	-16
Areawide net weighted difference, including San Francisco = - 4		-15
Excluding San Francisco = -12		

1. From Table 1
2. From Table 6

TABLE 18

Partisan Composition of Executive Committee: Association of Bay Area Governments, 1966

County	County Delegation				City Delegation				Total			
	Democratic #	%	Republican #	%	Democratic #	%	Republican #	%	Democratic #	%	Republican #	%
Alameda	0	0	1	100	2	67	1	33	2	50	2	50
Contra Costa	1	100	0	0	0	0	1	100	1	50	1	50
Marin	0	0	1	100	0	0	1	100	0	0	2	100
Napa	0	0	1	100	0	0	1	100	0	0	2	100
San Francisco	1	100	0	0	1	100	0	0	2	100	0	0
San Mateo	0	0	1	100	0	0	1	100	0	0	2	100
Santa Clara	0	0	1	100	1	33	2	67	1	25	3	75
Solano	-	-	-	-	0	0	1	100	-	-	1	100
Sonoma	0	0	1	100	1	100	0	0	1	50	1	50
Total	2	25	6	75	5	38	8	62	7	33	14	67

TABLE 19

Partisan Composition of General Assembly: Association of Bay Area Governments, 1966

County	County Side				City Side			
	Democratic #	%	Republican #	%	Democratic #	%	Republican #	%
Alameda	0	0	1	100	8	38	5	62
Contra Costa	1	100	0	0	8	38	5	62
Marin	0	0	1	100	5	45	6	55
Napa	0	0	1	100	1	25	3	75
San Francisco	1	100	0	0	1	100	0	0
San Mateo	0	0	1	100	5	31	11	69
Santa Clara	0	0	1	100	7	47	8	53
Solano	-	-	-	-	1	17	5	83
Sonoma	0	0	1	100	3	38	5	62
Total	2	25	6	75	39	45	48	55

Assembly, an effective veto power in the General Assembly is wielded by a county representation that is only 25 per cent Democratic, representing a population that is 58 per cent Democratic.

A closer analysis was made of the partisan compositions of the ABAG General Assembly and Executive Committee, and these were compared with the partisan composition of the supervisors and councilmen they represent (see Tables 20 and 21). The Association's membership rolls suggest the existence of an even greater "Republican advantage" than was true of local governments in the Bay Area. In all except two counties, the partisan registration of the supervisor member of the Executive Committee and General Assembly is strikingly different from that of the supervisors they represent, and the difference favors the Republicans.^{h/} Although there is much less contrast in the case of city members of the General Assembly, they are, on balance, somewhat more Republican than the councilmen in the county areas they represent. But, again, city members of the Executive Committee are substantially more Republican than the city councilmen in five of the nine counties; in only one county, Sonoma, does the difference favor Democrats significantly. Thus the partisan deviation of local government appears to be both duplicated and accentuated in the leadership of the Association of Bay Area Governments.

^{1/} The consolidated city-county of San Francisco with its at-large elections was excluded.

^{2/} These figures are based on the Association membership list prepared for the December 16, 1966, meeting of the General Assembly.

^{3/} The following is worth noting here. A combination of equal voting in the General Assembly by all cities, regardless of size, and a tendency toward Republican control of the councils of many small cities, could combine to produce a peculiar potential for minority control of the Assembly. The 46 smallest cities in the Bay Area -- which contain only about 7.5 per cent of the total city population (San Francisco included as a city) -- would have theoretical voting control over the General Assembly. The councils of nearly two-thirds of these 46 cities contain Republican majorities.

^{h/} Admittedly the percentage deviation in the case of one-man delegations is, in part, a statistical fiction. Excluding those persons who decline to state or belong to minority parties, a one-man delegation must be, by definition, either 100 per cent Republican or 100 per cent Democratic, and will have to differ from any constituency except one that is also composed 100 per cent of one party. Despite its artificiality, however, the difference is a useful indicator for showing which party tends to be favored.

TABLE 20

Party Differences: ABAG General Assembly
Compared with Bay Area Supervisors and Councilmen, 1966¹

County Members of General Assembly						City Members of General Assembly (Grouped by county)					
More Republican than Supervisors		Only Minor Differences		More Democratic than Supervisors		More Republican than Councilmen		Only Minor Differences		More Democratic than Councilmen	
Alameda	-60	San Francisco	0	Contra Costa	+20	Napa	-40	Contra Costa	+3	Alameda	+9
Marin	-60					San Mateo	-8	San Francisco	0	Marin	+17
Napa	-20					Solano	-33	Sonoma	-2	Santa Clara	+10
San Mateo	-40										
Santa Clara	-20										
Sonoma	-20										

1. Figures indicate the percentage points by which the ABAG delegations to the General Assembly differ from the boards of supervisors and city councilmen they represent. A minus sign means the ABAG delegation is more Republican, a plus, more Democratic.

TABLE 21

Party Differences: ABAG Executive Committee
Compared with Bay Area Supervisors and Councilmen, 1966¹

County Members of Executive Committee						City Members of Executive Committee					
More Republican than Supervisors		Only Minor Difference (less than 5% points)		More Democratic than Supervisors		More Republican than City Council- men in County		Only Minor Difference (less than 5% points)		More Democratic than City Councilmen in County	
Alameda	-60	San Francisco	0	Contra Costa	+20	Contra Costa	-59	Alameda ^a	-3	Sonoma	+60
Marin	-60					Marin	-29	San Francisco	0		
Napa	-20					Napa	-65	Santa Clara ^b	-4		
San Mateo	-40					San Mateo	-39				
Santa Clara	-20					Solano	-50				
Sonoma	-20										

^a Includes the at-large city members from Oakland

^b Includes the at-large city members from San Jose

1. Figures indicate percentage points by which the ABAG delegations differ from the board of supervisors or city councilmen whom they represent. A minus sign means the ABAG delegation is more Republican, a plus, more Democratic.

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